

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

THE UNITED STATES OF AMERICA, :
PLAINTIFF : Case No. 7:14-CR-48 (HL)
VS :
: January 13, 2015
JUAN SANCHEZ HIDALGO, ANDREW :
D. CARTER, JUAN P. CUEVAS : Valdosta, Georgia
JOSÉ A. MARTINEZ :
DEFENDANT. :

DETENTION HEARING CONTINUED

BEFORE THE HONORABLE THOMAS Q. LANGSTAFF
UNITED STATES MAGISTRATE JUDGE, PRESIDING

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P R O C E E D I N G S

January 13, 2015

THE COURT: All right. Good afternoon to everyone.

COUNSEL COLLECTIVELY: Good afternoon.

THE COURT: Let me take a moment to remind counsel and the witnesses that the Rule was invoked yesterday, so if there are any witnesses in the courtroom who counsel expects or might testify, please ask them to wait outside.

And for the record, today is January 13. It's 2:30 p.m. This is a continuation of a hearing that began yesterday in the case of United States of America versus Andrew David Carter, Jr., José Alfredo Martinez, and Juan Sanchez Hidalgo, being case number 7:14-CR-48.

Ms. Dorminey, our interpreter, is present again. And, Ms. Dorminey, the Court will remind you that you are still under oath.

All right. We left yesterday evening with the government resting its case. So now we are ready for the defendants' presentations, if any defendant has evidence to offer, and we will go in the order we've been going.

So, Ms. Williams, we'll start with you on behalf of Andrew David Carter. Any evidence you wish to present?

MS. WILLIAMS: Yes. I would like to call a

1 witness, Robert Stokes. I think he's outside.

2 THE COURT: Welcome, Mr. Stokes. And the Court
3 -- I can't remember if I did this, but let me just perfect
4 the record. This is case 7:14-CR-48. Ms. Bowen appears
5 for the government. Ms. Williams is here for Mr. Carter.
6 Mr. Walker is here for Mr. Martinez. And Mr. Haugabrook
7 is here for Mr. Hidalgo.

8 All right. Ms. Williams, you may proceed.

9 **ROBERT STOKES**

10 Witness, having first been duly sworn, testified on

11 DIRECT EXAMINATION

12 BY MS. WILLIAMS:

13 Q. Mr. Stokes, would you -- would you state your name
14 for the record.

15 A. My name is Robert Stokes.

16 Q. And how are you employed?

17 A. I'm employed at Moultrie Tech currently.

18 Q. And how long have you been working at Moultrie Tech?

19 A. About a year and a half.

20 Q. And what exactly is your job description?

21 A. I'm an adjunct instructor at Moultrie Tech.

22 Q. And what classes do you teach?

23 A. Comp literacy, computer systems.

24 Q. Do you have any other jobs?

25 A. Yes, ma'am. I'm also serving as an elder at the

1 (inaudible) Church, and I'm a part-time bailiff at Tift
2 County Sheriff's Office.

3 Q. Okay. And how long have you been a part-time
4 bailiff with the Tift County Sheriff's Office?

5 A. About two years now.

6 Q. Okay. You're also retired; is that correct?

7 A. Yes, ma'am. Air Force, retired.

8 Q. And what was your job and rank before you retired
9 from the Air Force?

10 A. I was a computer officer, programmer, and also a
11 communicator systems analyst. I was a retired Captain.

12 Q. And how long were you in the military?

13 A. Just one month shy of 26 years.

14 Q. Okay. Now, how do you know Andrew Carter?

15 A. He's my nephew and I -- over the years, I would see
16 him quite often.

17 Q. Okay. And where do you live? And don't give me the
18 exact address, but if you could, give me the town and the
19 state.

20 A. I live in Omega, Georgia. I was born and raised
21 there. I recently moved back about four years ago from
22 San Antonio, Texas.

23 Q. Okay. And since you've been back for the past four
24 years how often would you see your nephew, Andrew Carter?

25 A. Anywhere from three to four times a week.

1 Q. Okay. And prior to you moving back to Omega,
2 Georgia, how often would you visit?

3 A. We would -- for every holiday season, we would
4 return back to Omega, and for special occasions like
5 birthday celebration and graduations, things like that.

6 Q. Okay. Now, you said that Mr. Carter is your nephew.

7 A. He is.

8 Q. Are you related to his mother or to his father?

9 A. Sisters and brother, yes, ma'am.

10 Q. Okay. Now, do you know where Mr. Carter lives?

11 A. Yes, ma'am, I do.

12 Q. And what city and state does he live in?

13 A. He live in Omega, Georgia, also.

14 Q. Does he have any other family members that live in
15 that general area?

16 A. Yes, ma'am, lots of family.

17 Q. Could you name some of those family members?

18 A. Yes. He has an aunt that lives in Tifton, Georgia,
19 also in Omega. He also has a cousin that lives up
20 approximately one mile, half a mile from him. He has a
21 sister that lives about the same distance from him. He
22 has another cousin there as well, a cousin-in-law, that
23 lives in Omega. And in Tifton, which is where we do all
24 our shopping and everything, he has an aunt -- he has two
25 aunts that lives there and a couple of uncles.

1 Q. Okay. How long has Mr. Carter lived in Omega,
2 Georgia?

3 A. All of his life.

4 Q. Now, do you know Mr. Carter to travel frequently
5 outside the State of Georgia?

6 A. No, ma'am.

7 Q. What is the nature of your relationship with Mr.
8 Carter?

9 A. Well, I'm his uncle, and when I moved back, I didn't
10 employ him, he just volunteered to help me. In order to
11 get my -- make my residence livable, he came and helped me
12 with my roof, and I would see him. When I needed some
13 heavy lifting -- because, as I grow older, my back doesn't
14 serve me well -- so he's always volunteered to come out to
15 help.

16 Q. Okay. Now, have you ever seen Mr. Carter with any
17 drugs?

18 A. No, ma'am.

19 Q. Have you ever seen him with any firearms or weapons?

20 A. No. I have seen him with -- I think his father had
21 a pellet gun in the house, so I've seen him with that. I
22 was aware that he had a weapon because his dad told me
23 that he was going -- I tried to buy some protection for my
24 own home when I got there, and his dad said, no, that he
25 was going to give it to the boys. That was about it.

1 Q. Okay. Now, have you ever seen him engage in any
2 kind of physical fight?

3 A. Never. I've never seen him engaged or enraged in
4 any kind of way.

5 Q. Now, are you afraid of Mr. Carter?

6 A. No, ma'am, absolutely not.

7 Q. If he were given a bond, would you be willing to
8 allow him to live with you?

9 A. Yes, ma'am.

10 Q. Now, have you ever been arrested for anything?

11 A. Never. Nothing.

12 Q. Now, do you have any reason to believe that Mr.
13 Carter would harass or intimidate any witnesses?

14 A. No, ma'am, I don't. He always seemed to be a good
15 natured person, especially respectful to me. I've never
16 noticed him to be that type of person.

17 Q. Now, do you believe that he would flee the
18 jurisdiction?

19 A. No, ma'am, I don't. I don't think he has anywhere
20 to go.

21 Q. Do you know of any reason why he wouldn't appear for
22 court?

23 A. No, ma'am, I don't.

24 Q. Now, Mr. Carter has about three children; is that
25 correct?

1 A. Yes, ma'am.

2 Q. Have you observed him with his children?

3 A. Yes, ma'am, I have.

4 Q. And what type of father is he?

5 A. Oh, he's a good father. I know with his oldest
6 daughter. I've seen her -- him taking her different
7 places and I've seen her going to him when she needed
8 things. And I have noticed when there was a crisis
9 situation with her that he was not the kind that was
10 violent or anything towards her, always -- when I was
11 around, he always talked to her and communicated with her.
12 I've seen him upset, mad with her, but I've never seen him
13 act out on his reaction toward her.

14 MS. WILLIAMS: I have no further questions of
15 this witness.

16 THE COURT: All right. Ms. Bowen, any cross?

17 MS. BOWEN: Yes, sir.

18 CROSS EXAMINATION

19 BY MS. BOWEN:

20 Q. Good afternoon, sir. My name is Julia Bowen, and I
21 represent the United States of America.

22 A. Good afternoon.

23 Q. I just have a couple of questions.

24 A. Yes, ma'am.

25 Q. I believe you said that Sarah Carter is your sister?

1 A. Yes, ma'am.

2 Q. And Sarah Carter lives at 1569 Georgia Avenue?

3 A. That's correct.

4 Q. And also recently in time residing in the house with
5 her were Kayla Carter and Diamond Carter?

6 A. That's correct.

7 Q. Now, I believe you said that you would visit three
8 to four times a week with Andrew. Where would those
9 visits take place?

10 A. I would see him at his mother's house when I would
11 go over. My mother-in-law's house is one block over, so
12 when I would go through to visit with her, my wife and I,
13 if he would be standing around, I would stop and talk to
14 him. And when I was in Texas I would communicate with him
15 about his career and some things that was happening, and
16 he would bring his wife over at the time, and every time I
17 would come home, he would come over and visit with me at
18 my mother-in-law's house.

19 Q. Okay. So the two locations then that you've noted
20 one of them is 1569 Georgia Avenue?

21 A. That's correct.

22 Q. And you indicated that for the past four years, if I
23 have it correct, you have visited there or at your
24 mother-in-law's three to four times a week?

25 A. Yes.

1 Q. Are you aware during those visits of the dealing of
2 crack cocaine from that residence by Sarah Carter and
3 Andrew Carter?

4 A. No, ma'am. I am -- I preach -- I'm a preacher also,
5 so they've always -- when I'm around, they're respectful
6 towards me. I have never noticed any kind of activity or
7 things like that occurring when I was there. I've never
8 seen it.

9 Q. Okay. You mentioned some aunts and some cousins in
10 the Tifton area. Is Maurice Todd Carter Andrew Carter's
11 brother?

12 A. Yes, ma'am.

13 Q. And does he live, I believe, in Cook County?

14 A. No. He lives in Colquitt.

15 Q. Colquitt. And we've established Sarah Carter is his
16 mother, Diamond is his daughter, Kayla Carter is his
17 sister?

18 A. Yes.

19 Q. And Latoris Waters is his girlfriend and also, prior
20 to recent events, lived with him at 186 Crosland Lenox
21 Road?

22 A. Yes, ma'am.

23 Q. Are you aware that all of those individuals, those
24 family members, are indicted in this drug trafficking
25 conspiracy together?

1 A. Yes, I am.

2 Q. Now, you talked about him coming over to help you
3 with your roof or work on your house?

4 A. Yes, ma'am.

5 Q. How recent in time was that activity?

6 A. That was when I first arrived back in -- four years
7 ago.

8 Q. Okay. You mentioned, I think, a handgun that might
9 have been at the residence of now Sarah Carter, but also
10 previously Andrew Carter, Sr., resided there prior to his
11 being deceased; is that correct?

12 A. That's correct.

13 Q. Are you aware that on the execution of a search
14 warrant at that residence this prior year, September 25th,
15 2014, that there was a handgun found and that handgun was
16 stolen?

17 A. No. I was told afterwards that a handgun had been
18 found in the house, but not that it was stolen.

19 Q. You mentioned that, in your opinion, Andrew Carter
20 is a good father?

21 A. Yes, ma'am.

22 Q. And are you aware, taking into calculation in
23 forming that opinion, that he employed his daughter,
24 Diamond Carter, to courier drugs for him?

25 A. No. I know she had a car and he purchased her one,

1 but never.

2 Q. Thank you, sir. One other question. Speaking of --
3 I think I asked you about the firearm in the house. Are
4 you aware that two other firearms were found in the
5 residence at 1569 Georgia Avenue?

6 A. Yes, ma'am. I was told there was more than one
7 weapon found.

8 Q. Thank you, sir. And I think we've -- you've
9 testified that three adult women lived there, but doesn't
10 also a child reside in that home?

11 A. Yes, ma'am.

12 Q. Thank you, sir.

13 THE COURT: Anything further, Ms. Williams?

14 MS. WILLIAMS: No, Your Honor.

15 THE COURT: Mr. Stokes, thank you, sir. You may
16 step down.

17 Ms. Williams, any further evidence on behalf of
18 Mr. Carter?

19 MS. WILLIAMS: No. Well, I had one other
20 witness. I'm not sure if he returned today, which would
21 have -- May we take a look and see if he's outside?

22 THE COURT: Sure.

23 (Aside)

24 MS. WILLIAMS: My other witness, which would have
25 been Troy Lindsey, is not present. He did inform me

1 yesterday that he may not be able to return due to a
2 conflict, but if I may just proffer what he would have
3 testified to because he was, in fact, here yesterday.

4 THE COURT: Tell me his name again.

5 MS. WILLIAMS: His name is Troy Lindsey, and he
6 is a pastor at the St. John's Missionary Church. He's
7 been a pastor at that church for approximately 12 years.
8 He would testify that my client, Mr. Carter, attends that
9 church, that he generally attends with the mother of his
10 child, Latoris Waters, and that he also sees my client at
11 family gatherings. St. John's Missionary Church is a
12 family church. It is a rather small church with
13 approximately 150 individuals on the roll, so it is a
14 pretty close knit church. That my client, Mr. Carter, has
15 been attending that church for approximately one year,
16 that he would allow my client to assist with offering and
17 praying over the money at church. He would also state
18 that he has never seen Mr. Carter with drugs, with any
19 weapons, or engaging in any type of physical fights, and
20 that in addition to seeing him at church he saw him at
21 family gatherings. He is not a member of Mr. Carter's
22 family, he is a close friend of the Waters family, and so
23 when they would have dinners, he would attend the dinners
24 and my client would be present. And that is what Mr.
25 Lindsey would have testified to with respect to Mr.

1 Carter.

2 THE COURT: All right. Thank you, Ms. Williams.
3 Do you rest on behalf of Mr. Carter?

4 MS. WILLIAMS: I would. In closing, I would just
5 argue some information that the Court is already aware of
6 that is included in the Bail Report.

7 THE COURT: All right. I'll give you an
8 opportunity to do that when the evidence is closed.

9 All right. So we then move to Mr. Martinez. Mr.
10 Walker, any evidence on behalf of your client?

11 MR. WALKER: Yes, sir, Your Honor. Testimony
12 from Mr. Sergio Martinez.

13 THE COURT: All right.

14 MR. WALKER: Sergio Martinez.

15 THE COURT: Good afternoon, Mr. Martinez.

16 WITNESS S. MARTINEZ: How are you doing?

17 THE COURT: Well, thank you, sir. All right.
18 Mr. Walker, you may proceed.

19 MR. WALKER: Thank you?

20 **SERGIO MARTINEZ**

21 Witness, having first been duly sworn, testified on

22 DIRECT EXAMINATION

23 BY MR. WALKER:

24 **Q.** Mr. Martinez, if you would, state your full name for
25 the record, please.

1 A. Sergio Martinez.

2 Q. Mr. Martinez, I hate to have to ask you, but what is
3 your age?

4 A. 8/11/61. I'm 53 years old.

5 Q. All right. And what -- where do you live? Not the
6 specific address, but the town and -- and community that
7 you live?

8 A. It's really in Colquitt County, but it's -- they
9 claim it to be an Omega address, but I live in Colquitt
10 County, because it's more toward Tift County.

11 Q. And how long have you lived in that area?

12 A. I would say over 25 years or better.

13 Q. And are you employed?

14 A. Yes, sir. I'm self-employed. I'm a labor
15 contractor, farm labor contractor.

16 Q. When you say farm labor contractor, what does that
17 entail? What do you specifically do?

18 A. I work out on the farm, and also as well on the
19 cotton gins during the fall -- during cotton season. I
20 work like 65, 70 miles round in Tifton.

21 Q. And as a labor contractor how many people do you
22 employee at these different places?

23 A. I would say between 120, 130, somewhere in that
24 neighbor.

25 Q. Are you -- do you have any children yourself?

1 **A.** Yes, sir. I have ten children.

2 **Q.** And do they live close by you?

3 **A.** Yes, sir. My youngest child is four years, and my
4 oldest is 35 years. But they -- they all live around the
5 Omega community.

6 **Q.** And do you have any brothers or sisters?

7 **A.** Yes, sir.

8 **Q.** How many siblings do you have?

9 **A.** We're 12 brothers and two sisters.

10 **Q.** Do they live close to you?

11 **A.** Yes, sir. Everybody around the Omega community,
12 within a few miles.

13 **Q.** Of course, if you would, tell the Court how you know
14 Mr. José Martinez -- José Martinez.

15 **A.** He's my brother. He's been with the family in the
16 same community for years, all his life.

17 **Q.** And does -- does he work with you?

18 **A.** Yes, sir.

19 **Q.** How long has he been employed with you or working
20 with you?

21 **A.** Recently I would say three to four years, but most
22 of his entire life he has worked partial time on the
23 weekends when he was working in town, up in the farm, you
24 know, but recently in this past few years, he had been
25 working in the farm with me.

1 Q. And how long has he lived in the Omega community?

2 A. It's been more than 20 years I know.

3 Q. Are you aware of where he went to school?

4 A. Yes. He attended Colquitt County and Tifton County
5 schools.

6 Q. And does he have any children?

7 A. Yes, sir. He's got two children with the first wife
8 and two with his second wife, which is liking they say
9 adopted but not adopted legally.

10 Q. And are you familiar with his second wife?

11 A. Yes, sir.

12 Q. What's her name?

13 A. Jessica. Ms. Jessica.

14 Q. Tellez?

15 A. Tellez Martinez, yeah.

16 Q. And you understand that she's charged in this case
17 along with Mr. Martinez; do you not?

18 A. Yes, sir.

19 Q. And is she out on bond presently on -- in this case?

20 A. To my knowledge, yes.

21 Q. And in relation to her home and Mr. José Martinez's
22 home and your home, how far is that? What's the distance?

23 A. I would say between five to seven miles at the
24 most.

25 Q. And prior to Mr. Martinez being arrested did -- did

1 you have an opportunity to visit with him on a regular
2 basis?

3 A. Well, yes, sir.

4 Q. How often would you see Mr. Martinez?

5 A. Just about every day or -- or very, very recently.
6 I mean, I would say we would always get together at the
7 house or my mom's house, which my mom is already passed
8 away, but we call it our mom's house. We always get
9 together, regardless, on the weekends and stuff like
10 that. Not only on daily basis, but especially on the
11 weekends.

12 Q. And does Mr. Martinez, does he attend church
13 anywhere?

14 A. We have what we call a little chapel there at home,
15 at 6147, that we claim our church. When we don't go to
16 the church, Catholic church, we do our prayers there at
17 home, just before we even go to work or on the way back,
18 we always stop and do our prayers, and even on the
19 weekends.

20 Q. Let me ask you this, I hate to, but have you ever
21 been in trouble with the law?

22 A. No, sir.

23 Q. Now, there -- you have a sister named Aracley
24 Rivera; is that correct?

25 A. Yes, sir.

1 Q. And she has had some problems in the past, has she
2 not, with -- Strike that. Has she ever had any problems
3 in the past in relations to any -- being a victim of any
4 crime?

5 A. Yes, sir.

6 Q. Would you tell the Court about that?

7 A. She was abducted back -- I can't remember the year
8 exactly, but it's been more than ten years if I'm not
9 mistaken or somewhere in that neighborhood.

10 Q. And to your knowledge was there any correlation
11 between that abduction and Mr. José Martinez, your
12 brother?

13 A. No, sir. Not to my knowledge because I would say
14 that I was never informed through any federal agent or
15 nothing. The only time I was informed was through Mr.
16 Gary Vowell that they had found her in Atlanta, and that
17 was -- that was it. I only spoke to an agent, federal
18 agent, one time, and it was a lady, but I can't remember
19 her name.

20 Q. Let me ask you this, during the time period in which
21 you visited with your brother, have you ever seen him with
22 a firearm?

23 A. No, sir.

24 Q. Have you ever seen him with any type of firearm,
25 explosive, weapon, anything like that?

1 A. No, sir, none whatsoever.

2 Q. Have you ever seen him with any type of drugs or any
3 drug paraphernalia?

4 A. No. Definitely not.

5 Q. Now, you're aware that Mr. Martinez spent some time
6 in the penitentiary, state penitentiary; is that right?

7 A. That's correct.

8 Q. All right. And do you know anything about his
9 sentence?

10 A. I think he was having, if I'm not mistaken, 25 years
11 and did seven and a half, if I'm not mistaken.

12 Q. What's your understanding of how he got out early?
13 Do you know?

14 A. No. But I guess with good behavior, I don't know.
15 He was out on parole.

16 Q. And since that time, that would have been somewhere
17 2011. Does that sound about right?

18 A. Yes, sir, somewhere in that.

19 Q. Since that time, has he been employed with you and
20 worked?

21 A. Yes, sir.

22 Q. And could you tell the Court where he's worked for
23 you?

24 A. Yes, sir. He has worked not only as a regular
25 laborer but as the foreman taking care of crews in

1 different farms, wherever I would send him to in the
2 surroundings of Tifton.

3 Q. You say the surroundings of Tifton, would that be in
4 Tifton?

5 A. No. I would say -- like I said, we always have work
6 all the way up to Cordele, Americus, and Smithville, same
7 thing, as well as Chula, Brookfield, and -- and the
8 surrounding little towns around Omega.

9 Q. Let me ask you this, would that require Mr. Martinez
10 to travel in the morning and the evening?

11 A. Oh, yes, sir.

12 Q. And during those travels would he otherwise be in
13 trucks to haul produce, that type stuff?

14 A. Oh, yes, sir. Yes, sir.

15 Q. And so it wouldn't be unusual for him to be
16 traveling with a group of other people that may be working
17 for you; is that right?

18 A. That's right, sir.

19 Q. Has he ever worked up the Cordele area?

20 A. Well, yes, sir. Yes, sir. Definitely.

21 Q. Has he ever worked up in the Americus area?

22 A. Yes, sir. Smithville, Americus.

23 Q. And during that time period would he get up in the
24 morning, leave his house? Would you give me his schedule
25 as it relates to getting up and coming home or would he

1 stay in those areas where he worked?

2 A. Normally we get up around 5:30, 5:00 o'clock in the
3 morning and start picking up laborers so we can be ready
4 to go at daylight, and sometimes we don't get back home
5 until around 8 or 9:00 o'clock. It's all accordingly.

6 Q. And during any of these trips and travels have you
7 ever seen him with any type of weapons on him?

8 A. No, sir. Definitely not.

9 Q. No type of drugs on him?

10 A. No, sir.

11 Q. Do you believe that Mr. Martinez, if this Court was
12 inclined to give him a bail, would flee the jurisdiction
13 of the Court or otherwise fail to appear when he's
14 required to?

15 A. We'll make sure that he appears every time that he's
16 called.

17 Q. If this Court was inclined to grant him a bond would
18 he, Mr. Martinez, be welcome to stay in your house?

19 A. Yes, sir, at any time. At any time.

20 Q. With the number of people that you employ, the
21 number of family members that live close there to you, do
22 you believe that you could actively monitor Mr. Martinez's
23 going and coming so you would otherwise know where he's
24 at, at all times?

25 A. Yes, sir. We would do our best. Yes, sir.

1 Q. And would you take that on yourself, your
2 obligation, to make sure you could account for his
3 whereabouts at all times?

4 A. Yes, sir. I sure will.

5 Q. Do you believe that Mr. Martinez would pose a
6 significant risk to any person in the community?

7 A. No, sir.

8 Q. Do you believe that Mr. Martinez would pose any
9 significant risk to any property in the community?

10 A. No, sir.

11 Q. Would you believe that -- do you believe that Mr.
12 Martinez would pose a significant risk or a risk to
13 obstruct the administration of justice?

14 A. No, sir.

15 Q. Are you asking the Court to grant him a reasonable
16 bond?

17 A. I sure would, sir, with all my heart.

18 MR. WALKER: No further questions at this time,
19 Your Honor.

20 THE COURT: All right. Ms. Bowen, cross?

21 CROSS EXAMINATION

22 BY MS. BOWEN:

23 Q. Good afternoon, sir.

24 A. Good afternoon, ma'am.

25 Q. If I understand correctly, I believe you said you

1 are a laborer contractor?

2 A. Yes, ma'am. Farm labor.

3 Q. Farm labor contractor. And what's the name of your
4 business?

5 A. Martinez Harvesting. Sergio. Of course, in the
6 surrounding areas they know me by Sergio Martinez,
7 contractor.

8 Q. And you're the boss?

9 A. You may say in locally I am, but with special forces
10 for farm labor that we recruit from Mexico, (inaudible)
11 two ways, somebody else is in charge with them, one of my
12 sisters and my brother.

13 Q. Okay. Is that brother José Martinez?

14 A. No, ma'am.

15 Q. Okay. So José Martinez, that brother, works for
16 you?

17 A. Yes, ma'am.

18 Q. And what does he do for you?

19 A. He supervises over crews and sometimes drive buses
20 with produce. Whatever is necessary, in other words.

21 Q. Okay. How many crews does he supervise?

22 A. Normally it all depends if I -- he takes care of,
23 like, 25 people. And if he moves from one place to
24 another, it'll be to my knowledge or I'll -- I'm the one
25 that guides them and tell them where -- where they need to

1 carry the labor.

2 Q. Okay. So if you have to give him direction, y'all
3 aren't together, he's reporting in to you?

4 A. Not necessarily. We speaking only -- excuse me --
5 only during plantations, if I may correct myself because
6 we plant over 3,000 acres of watermelon.

7 Q. Okay. All right. And what time of year is that?

8 A. That's in March. We start in March all the way to
9 April, the first or second week of April.

10 Q. Okay.

11 A. And then we start cleaning patches or stuff like
12 that or whatever is necessary for the watermelons, any
13 vines afterwards, and then harvesting the watermelons up
14 unto middle of July.

15 Q. Okay. So if I'm understanding you correctly, you
16 employee approximately 110 to 130 laborers?

17 A. Yes, ma'am.

18 Q. And there are 25 people on a crew?

19 A. Not necessarily. You asked me with José, if I'm not
20 mistaken.

21 Q. Okay.

22 A. It all depends on the amount of acreage that needs
23 to be done or the farm that we are working at the time.

24 Q. Okay. So, for instance, in watermelon planting
25 season --

1 A. Yes, ma'am.

2 Q. -- how many people would be on a crew?

3 A. Just like I said, ma'am, it all depends on the size
4 of the work that we have to do, the acreage to plant, and
5 so forth. But we normally have for -- to be more
6 specific, if I may?

7 Q. Sure.

8 A. It could be up to three or four crews or it could be
9 two crews. It's all according.

10 Q. Okay. So to be effective, I guess, then in your job
11 you have to have several crews?

12 A. That's correct.

13 Q. And you have to have several individuals who
14 supervise, direct, and lead these crews?

15 A. Yes, ma'am.

16 Q. And your brother is one of these people who --

17 A. Yes.

18 Q. -- directs these crews? Now, when you -- you go to
19 work or José goes to work, does he come to a place of
20 business or does he just get in his truck and head off to
21 work?

22 A. It all depends. One day before, if we don't get
23 through with a job or if he happens to get through with
24 that job, I'll call him and tell him, hey, look, you got
25 to go to this other farm and be there tomorrow with the

1 same crew or I'm going to send you some more or less,
2 whatever's necessary.

3 Q. Okay.

4 A. But it's always through me.

5 Q. Always through you?

6 A. Yes.

7 Q. And that may be a telephone contact?

8 A. Yes.

9 Q. Okay. And I think you described this has been the
10 way that you've been working for the past four years?

11 A. With José. With José, yes.

12 Q. These questions are, yes, with José. Now, I think
13 you were asked on direct about the kidnapping of your
14 sister?

15 A. Yes, ma'am.

16 Q. Would the year 2004 seem correct to you?

17 A. Like I don't recall the exact year, but if that
18 would be somewhere close.

19 Q. Okay. And are you aware that shortly thereafter in
20 that same year that your brother was arrested for and
21 eventually sentenced to 25 years for trafficking in
22 cocaine?

23 A. Yes, ma'am.

24 Q. And that he was eventually paroled in 2011?

25 A. Right.

1 Q. And taken off of parole in 2013?

2 A. Yes, I believe.

3 Q. Oh, and I remember one other question. I'm sorry,
4 Mr. Martinez. So to -- and this is only because I don't
5 know a lot about farming, what kind of crops do you plant
6 in July, August, that time of year?

7 A. Normally it's pulling -- cleaning cotton patches,
8 but this year we -- I want to say last year, not this year
9 --

10 Q. Okay.

11 A. -- we planted cabbage that -- that we don't normally
12 do in Cordele and Smithville. We plant, I think it was --
13 if I'm not mistaken somewhere in the neighborhood of 50 or
14 60 acres on foot.

15 Q. Did you say on foot?

16 A. Yes, ma'am.

17 Q. That sounds pretty labor intensive?

18 A. Yes, ma'am. Hard labor.

19 Q. So 50, 60 acres on foot of cabbage. Did you rely on
20 your brother to get that job done?

21 A. Not only him, all of us as a group, yes. It takes a
22 lot of hard labor.

23 Q. So it would be a bad time for anybody to take a
24 vacation or take leave or leave the State?

25 A. If it's during working time. It all depends on the

1 -- on the dates.

2 Q. And the dates I'm asking you about are in July and
3 August when you've just described it being a very labor
4 intensive time for y'all planting 50 to 60 acres on foot
5 of cabbage?

6 A. Yes, ma'am.

7 Q. And just one last question, when you're out during
8 the day, I think you testified sometimes 5:30 a.m. until 8
9 p.m. at night you may be on the road. I think you said it
10 was a 60 mile area?

11 A. Yes, ma'am.

12 Q. So there's a certain amount of leeway, freedom to
13 make calls and take care of other business?

14 A. Everybody has freedom to do whatever they want to in
15 their -- in their own time. Not only does it provide for
16 myself as well as the same thing as the workers. When you
17 work out on the farm, you don't -- you don't stop them
18 from carrying a phone or anything whatsoever or -- or
19 stand up whenever they feel like standing up or
20 stretching. You don't --

21 Q. Okay. Thank you, Mr. Martinez. You answered my
22 question.

23 THE COURT: All right. Mr. Walker, anything
24 further for Mr. Martinez?

25 MR. WALKER: Just a few, Your Honor, if I could.

REDIRECT EXAMINATION

BY MR. WALKER:

Q. Mr. Martinez, I think you stated you planted a large amount of watermelons; is that right?

A. Yes, sir.

Q. And that normally occurs -- y'all start putting in plastic somewhere around -- clearing the fields somewhere around March of each year; isn't that right?

A. Yeah. That's correct, sir.

Q. And isn't it true in Georgia that you want that crop to come off prior to July the 4th, don't you?

A. Oh, yes, sir, definitely.

Q. The reason for that is you've got a higher market during that time period prior to the 4th; isn't that right?

A. Correct.

Q. And these watermelon growers that you otherwise grow watermelons for, they require you to load trucks and bins; is that right?

A. That's correct, sir.

Q. And each one of those bins have a certain count of watermelon -- a certain number of watermelons; isn't that right?

A. Yes, sir.

Q. And you may otherwise have telephone calls that tell

1 you I need nine bins; isn't that right?

2 A. Oh, yes, sir, very constantly. 45s, 36s, or 60s
3 what we call them.

4 Q. You may say you need 31 bins; is that right?

5 A. Yes, sir.

6 Q. They may say you need a half of a bin to fill an
7 order, say, for Walmart; is that fair to say?

8 A. That's correct. Or to finish up a load.

9 Q. All right. Now, in addition to that, I assume that
10 after the rush is off for July the 4th, that people try to
11 take a little time off; is that fair to say?

12 A. Yes, sir, definitely.

13 Q. Because they've been working a lot trying to get
14 those -- those crops in for these people to ship out
15 before the 4th; is that right?

16 A. One day before the 4th of July you -- you stop most
17 of the harvesting and then get started after the 4th of
18 July because they ain't too many trucks to haul the
19 production.

20 Q. Okay. And have you ever witnessed or saw or recall
21 a time when José would, after 2011, would leave the State
22 of Georgia on a regular basis?

23 A. No, sir.

24 Q. Now, are you familiar with where José was born?

25 A. Yes, sir. He was born in Eagle Pass, Texas.

1 Q. And does he frequent Mexico?

2 A. No. I don't think if -- throughout his whole life,
3 maybe one or two times being in Mexico, and just in the
4 border.

5 Q. Are you familiar with or do you know if José has a
6 passport?

7 A. Not to my knowledge, no.

8 Q. Now, currently you're working where?

9 A. I work Shellman and the surrounding areas, Bronwood,
10 Americus, Cordele, and the surrounding little towns in --
11 around Tifton. Right now we have 36 people working in
12 SuperTree Farms Nursery in Shellman. We got 16 people
13 working in Americus, Sumter Producers Cotton Gin. We done
14 got through with Mr. Ronnie Lee in Bronwood. We done got
15 through in Sylvester, Worth County Gin. And we almost
16 through in -- in Brookfield, in Brookfield.

17 Q. Who you -- who you working for in Sylvester? Who
18 were you working for in Worth County?

19 A. Mr. Ron Coley.

20 Q. All right. What about Americus?

21 A. Americus, the Minor brothers.

22 MR. WALKER: No further questions, Your Honor.

23 THE COURT: Anything further, Ms. Bowen?

24 MS. BOWEN: No, Your Honor.

25 THE COURT: Mr. Martinez, outside of work,

1 socially how often do you see your brother, José?

2 WITNESS S. MARTINEZ: We see him just about every
3 day, sir, and on the weekends we see him -- get together
4 at my mom's house or either at my house, my -- or any of
5 my brother's house. We normally get together just about
6 every weekend. We like seeing each other throughout the
7 weekdays.

8 THE COURT: There's an allegation in this case
9 that your brother is involved in some sort of drug
10 distribution conspiracy. It's just an allegation. Of
11 course, not making a determination today as to whether he
12 is or is not, that's for another day. But the Court does
13 have a concern that if he was involved in that, that the
14 use of a phone and freedom while he's out on one of these
15 crews may allow him to continue such activity if he was
16 inclined to continue it if he's been doing it up to now.
17 Is there any assurance you could give the Court as to how
18 you could prevent him from using his cell phone to contact
19 people in the drug business and to continue doing what
20 he's alleged to have been doing?

21 WITNESS S. MARTINEZ: The way that I can do it,
22 sir, is put him, like -- like I said a while ago with Omar
23 Spencer. He is not only -- he used to work as a foreman
24 but as a regular laborer, and if I have to put him as a --
25 in a certain position where we can keep an eye on him,

1 we'll be more than gladly, sir, to supervise over him, and
2 take that phone or whatever is close to him so he can
3 dedicate to what -- to work.

4 THE COURT: I take it if -- if he was released
5 you would take him back in your employ?

6 WITNESS S. MARTINEZ: Yes, sir, definitely. In
7 the areas where the Court, if it allows me to, whatever is
8 more convenient for him, we try to do so, to meet --

9 THE COURT: All right. Thank you, sir.

10 WITNESS S. MARTINEZ: Yes, sir.

11 THE COURT: All right. May this witness step
12 down?

13 MR. WALKER: Yes, sir.

14 MR. HAUGABROOK: Yes, Your Honor.

15 THE COURT: All right. Mr. Martinez, thank you,
16 sir.

17 All right. Mr. Walker, any further evidence on
18 behalf of José Martinez?

19 MR. WALKER: No, sir, Your Honor.

20 THE COURT: All right. Mr. Haugabrook, that
21 moves us to Mr. Hidalgo. Any evidence on behalf of your
22 client?

23 MR. HAUGABROOK: Yes, Your Honor. We will call
24 at least one witness in this case, Jacqueline Tellez.

25 THE COURT: Good afternoon, ma'am.

1 WITNESS TELLEZ: Good afternoon.

2 THE COURT: You may proceed, Mr. Haugabrook.

3 MR. HAUGABROOK: Thank you, Your Honor.

4 **JAQUALINE TELLEZ**

5 Witness, having first been duly sworn, testified on

6 DIRECT EXAMINATION

7 BY MR. HAUGABROOK:

8 Q. Ms. Tellez, would you state your full name for the
9 record, please.

10 A. Yes. Jacqueline Sophia Tellez.

11 Q. And what city do you live in, Ms. Tellez?

12 A. Tifton, Georgia.

13 Q. How long have you lived in Tifton?

14 A. I've been there 15 years.

15 Q. Are you married?

16 A. Yes.

17 Q. Have any children?

18 A. Yes, sir.

19 Q. How many children do you have?

20 A. I have two children, a boy and a girl.

21 Q. And how old are they?

22 A. My daughter is nine years and my son is five.

23 THE COURT: Hold on one minute. Mr. Lawrence,
24 will you move that microphone a little bit closer to her
25 and maybe down and closer. Thank you.

1 BY MR. HAUGABROOK:

2 Q. Are you employed?

3 A. Yes, sir.

4 Q. And where are you employed?

5 A. I work in a store.

6 Q. Which store do you work in?

7 A. GD (inaudible) store.

8 Q. And what type of business is that?

9 A. It's a convenience store.

10 Q. How long have you been working there?

11 A. Three years.

12 Q. What is your position at that convenience store?

13 A. I'm the store manager.

14 Q. You testified that you live in the Tifton area. Are
15 you familiar with Mr. Hidalgo?

16 A. Yes, sir.

17 Q. How are you familiar with Mr. Hidalgo?

18 A. He's my uncle, but I always seen him like a father
19 to me.

20 Q. And where does your uncle live?

21 A. He lives with my aunty.

22 Q. And who is your aunt?

23 A. Carmen Ramirez.

24 Q. And do they live in the Tifton area as well?

25 A. Yes, sir.

1 Q. What type of residence does your uncle live in?

2 A. It's a single wide mobile home.

3 Q. How old is -- how old is that mobile home?

4 A. It's maybe in the '70s -- it's, like, more than 30
5 years old.

6 Q. Does anybody else live in that residence besides Mr.
7 Hidalgo?

8 A. Yes, him and Carmen.

9 Q. Anybody besides the two of them? I'm sorry.

10 A. No, sir.

11 Q. And how long has Mr. Hidalgo lived at that
12 residence?

13 A. A little -- a little bit more than a year and a
14 half, maybe.

15 Q. Prior to residing in Tifton, where did Mr. Hidalgo
16 live?

17 A. In El Paso, Texas.

18 Q. And do you know how long he lived at El Paso?

19 A. Yes, I remember. I was born in '87, and I know he's
20 been there long, long time.

21 Q. Are you familiar with his parents?

22 A. Yes.

23 Q. Are his parents still alive?

24 A. No, sir.

25 Q. Do you know if he came to the United States with his

1 parents?

2 A. As far as I know.

3 Q. Do you know about what age he came to the United
4 States with his parents?

5 A. Probably nine years old.

6 Q. And did you learn that information, you know,
7 through family discussions and stuff?

8 A. Yes, sir.

9 Q. Do you have any reason to doubt or to question that
10 that's how he came to the United States?

11 A. No, sir.

12 Q. What would be the approximate fair market value on
13 the residence where he and his sister live?

14 A. Maybe a \$1,000.

15 Q. Does your uncle own any vehicles?

16 A. A small vehicle. It's a small truck.

17 Q. Do you know how old that truck is?

18 A. It's old. It's like 80-something.

19 Q. Does he own any other vehicles besides that truck?

20 A. No, sir.

21 Q. Does your uncle own any residence other than where
22 he lives with his sister there in Tifton?

23 A. No, sir.

24 Q. As far as you know does he own any residence or any
25 vehicles in El Paso?

1 A. No, sir.

2 Q. As it relates to family members, I know he's your
3 uncle, do you all have any other relatives in the Tifton
4 area?

5 A. Yes, sir.

6 Q. Roughly how many members in your family live in the
7 Tifton area?

8 A. Maybe around 20 all together.

9 Q. Other than his sister, Ms. Ramirez, does he have any
10 other relative -- any other siblings?

11 A. Yes, sir, my mother.

12 Q. And your mother is -- is?

13 A. (Inaudible) Sanchez.

14 Q. And where is your mother?

15 A. She's here.

16 Q. And where does she live?

17 A. She lives in Tifton.

18 Q. You mentioned that you all have approximately about
19 20 family members?

20 A. Yes, sir.

21 Q. Do you have any other family members outside of
22 Tifton?

23 A. No, sir.

24 Q. Do you have any family members in Texas?

25 A. No, sir.

1 Q. As far as you know does Mr. Hidalgo have any other
2 relatives outside of Tifton?

3 A. No, sir.

4 Q. Does Mr. Hidalgo have any children?

5 A. Yes, sir.

6 Q. And how old are those children?

7 A. One is 36 and the other one is 31.

8 Q. And do you know where those children reside?

9 A. They live in Mexico.

10 Q. Have they been to Tifton?

11 A. No, sir.

12 Q. As far as you know does Mr. Hidalgo travel back and
13 forth to Mexico?

14 A. Not really.

15 Q. In the past few years have you known him to travel
16 to Mexico?

17 A. Just one time.

18 Q. Was he there any extended period of time?

19 A. No more than a month.

20 Q. As it relates to Texas, does he go back and forth to
21 Texas at all?

22 A. Not very often.

23 Q. Is he out there for very long?

24 A. No.

25 Q. Since he -- when did he move to Tifton?

1 A. I remember he moved to Tifton in around 2013.

2 Q. Since moving to Tifton has he been back to Texas?

3 A. Just one time I remember, but he went and back. He
4 came back as soon as I remember, you know. He wasn't
5 there for a long time.

6 Q. As far as you know does your uncle have -- does he
7 have a passport?

8 A. No, sir.

9 Q. Has he been outside of Tifton any extended period of
10 time as far as you know?

11 A. No, sir.

12 Q. Does he own any sort of property whatsoever outside
13 of Tifton?

14 A. No, sir.

15 Q. Does he own any property in Tifton?

16 A. He owns a truck.

17 Q. And that's the 30 year old truck that you mentioned?

18 A. (No audible response).

19 Q. You mentioned that you were aware of his parents and
20 they are deceased and his kids, you're aware of his
21 siblings, one of which is your mother. Do you all get
22 together often?

23 A. Yeah, sometimes. On Sundays we usually get together
24 at any of us house, you know, my cousin, my sister, my
25 aunty.

1 Q. Do you all have a very close knit family?

2 A. Yes, sir.

3 Q. Do you visit with Mr. Hidalgo and his sister?

4 A. Yes, sir.

5 Q. How often have you been to his -- the residence that
6 they share?

7 A. Often.

8 Q. In terms of visiting that residence have you ever
9 observed any guns in that residence?

10 A. No, sir.

11 Q. Any drugs in that residence?

12 A. No, sir.

13 Q. And you say you've been in the Tifton area about 15
14 years, correct?

15 A. Yes.

16 Q. And you have a good idea or compass in terms of how
17 the community feels?

18 A. Yes.

19 Q. Do you know people that know Mr. Hidalgo?

20 A. Yes, sir.

21 Q. A lot of people that know him?

22 A. Yes.

23 Q. What is his reputation in the community?

24 A. It's really good.

25 Q. Is he a peaceful sort of guy?

1 A. Yes.

2 Q. Reliable?

3 A. Yeah.

4 Q. Dependable?

5 A. Yes.

6 Q. You ever heard about your uncle being a violent
7 person in the community?

8 A. Yeah.

9 Q. You've heard about him being violent in the
10 community?

11 A. Violent, how you -- how you mean that?

12 Q. Does he have a reputation for being violent,
13 committing --

14 A. Valid?

15 Q. Violent.

16 A. Okay. No. I thought you said valid reputation.

17 Q. Valid. Oh, okay. No, violent.

18 A. No. He's not violent at all.

19 Q. You ever known him to carry a gun?

20 A. Not at all.

21 Q. Have you ever heard of anyone in the community that
22 may have said that he carried a gun?

23 A. Not at all.

24 Q. You ever known him to injure anyone?

25 A. No.

1 Q. Pull a gun on anyone?

2 A. No.

3 Q. A knife?

4 A. No.

5 Q. Does he care and support for the household that he
6 lives in?

7 A. Yes.

8 Q. In terms of any support that he provides, do you
9 know what support he provides to his sister that lives
10 there with him?

11 A. Well, you know, he used to work and he used to help
12 her a lot because she only clean houses.

13 Q. Has there ever been a time where Mr. Hidalgo has
14 helped other members of the family?

15 A. Yes.

16 Q. In terms of employment are you aware of any places
17 that Mr. Hidalgo has worked in the Tifton area?

18 A. Yes. He used to work in a metal company.

19 Q. Do you know the name of that metal company?

20 A. Coxsey, something like that.

21 Q. Is it Cooksey?

22 A. Yes.

23 Q. Do you know what he did for that company?

24 A. I think they carried the metal to the trucks or
25 unload trucks, something like that.

1 Q. Has he worked anywhere else in the Tifton area?

2 A. I knew he was working in the watermelon field.

3 Q. Is that with a gentleman by the name of Sergio?

4 A. Yes, sir.

5 Q. And so he's done two jobs that you know of since
6 being in Tifton?

7 A. Yes.

8 Q. Has he always maintained some form of employment?

9 A. Yes, sir.

10 Q. Has he always worked hard?

11 A. Yes, sir.

12 Q. As far as you know has he ever threatened anyone in
13 your community?

14 A. No, sir.

15 Q. Have you ever known him to threaten anyone?

16 A. No, sir.

17 Q. Have you ever heard of him threatening anyone?

18 A. No, sir.

19 Q. As it relates to the community as a whole -- as a
20 whole, have you ever known him to destroy anyone's
21 property in your community?

22 A. No, sir.

23 Q. Have you heard about him destroying any property
24 while he lived in Texas?

25 A. No, sir.

1 Q. As far as you know has your uncle ever applied for a
2 permit to carry a gun?

3 A. No, sir.

4 Q. As far as you know, has he ever purchased a gun?

5 A. No.

6 Q. You ever heard of anyone discussing that he
7 purchased a gun?

8 A. No.

9 Q. Are you aware of any sort of substance abuse issues
10 or problems that your uncle has?

11 A. No, sir.

12 Q. While at the residence where he and his sister
13 reside have you ever seen any drugs there?

14 A. No, sir.

15 Q. As far as any mental issues, does he have any sort
16 of mental or psychological issues that you're aware of?

17 A. No, sir.

18 Q. As far as you know does he take any sort of
19 medication for any mental or physical condition?

20 A. No.

21 Q. You're aware of any criminal history that he has?

22 A. No, sir.

23 Q. Does he have -- did he have a DUI in his past?

24 A. I think a long time ago, a really long time ago.

25 Q. As it relates to that DUI do you recall whether or

1 not he ever had his bond revoked in that case?

2 A. No, sir.

3 Q. Was there ever a time that there was a bench warrant
4 issued for his arrest to appear in court?

5 MS. BOWEN: Objection, Your Honor. I don't think
6 -- I think the witness testified she could not even recall
7 in the beginning whether or not he got a DUI. I think she
8 vaguely remembered it, so these other questions, I'm not
9 sure she has a basis for knowledge to respond.

10 THE COURT: Mr. Haugabrook?

11 MR. HAUGABROOK: Judge, I think she testified
12 that she was not aware of one. My question is whether or
13 not she is aware of a bench warrant or anything being
14 issued against him.

15 THE COURT: All right. I'll allow it.

16 BY MR. HAUGABROOK:

17 Q. Are you aware of any bench warrants ever being
18 issued against your uncle?

19 A. No, sir.

20 Q. Any police ever come to the residence in Tifton
21 looking for him as far as you know?

22 A. No, sir.

23 Q. Since he's been in Tifton have you known him to
24 operate a vehicle while under the influence of any alcohol
25 or drug?

1 A. No, sir.

2 Q. And you're aware of the charges that are presently
3 pending against your uncle?

4 A. Yes, sir.

5 Q. And you were in court last week and you heard that
6 the potential sentence that he could receive is ten years
7 or more if convicted?

8 A. Yes.

9 Q. Understanding what the charges are against your
10 uncle, does that in any way affect how you feel towards
11 your uncle?

12 A. No, sir.

13 Q. Is your uncle still welcomed in his sister's home as
14 far as you know?

15 A. Yes, sir.

16 Q. Is he welcomed in your home?

17 A. Yes, more than welcome.

18 Q. Based on the charges do you feel that he would be a
19 threat to your family if he got out on bond?

20 A. Not at all.

21 Q. Are you willing to act as what I would call a third
22 party custodian, report to the Court any violations that
23 he would commit if he got out on bond?

24 A. Yes, sir.

25 Q. Are you willing to do all that you can to make sure

1 he appears in court if he gets a bond?

2 A. Yes, sir.

3 Q. You understand he's a grown man though, right?

4 A. Yes, sir.

5 Q. You can't make him do anything, can you?

6 A. I cannot make him do anything, but I know him. I
7 know he won't do anything that the Court don't tell him to
8 do.

9 Q. You're willing to maintain daily or regular contact
10 with him to make sure that he keeps a job?

11 A. Yes.

12 Q. In this case, in preparing to come here today, have
13 you and your family checked on possible employment for Mr.
14 Hidalgo?

15 A. Yes, sir.

16 Q. And do you -- can you tell the Court where he might
17 be employed if he got a bond in this case?

18 A. Yes. He might get a job in A&V Auto Sales.

19 Q. And is that a -- did you provide me with a letter
20 from A&V Auto?

21 A. Yes.

22 Q. That stated that they would hire him if he gets out
23 on bond?

24 A. Yes, sir.

25 Q. That he would work 40 hours a week?

1 A. Yes, sir.

2 Q. Making about \$8 an hour as a laborer?

3 A. Yes, sir.

4 Q. As it relates to any bond in this case, if the Court
5 would grant Mr. Hidalgo a bond, are you and your family
6 willing to put up any property that you all have to secure
7 that bond?

8 A. Yes, sir.

9 Q. And you and I have talked about this, and you're
10 aware that if the Court would grant bond and you would
11 secure that bond with any of your personal property that
12 if he fled the jurisdiction, didn't appear, that your
13 property could be lost?

14 A. Yes, sir.

15 Q. You're aware of that?

16 A. Yes.

17 Q. You've talked with your family about this; have you
18 not?

19 A. Yes, sir. I talked --

20 Q. And they're aware that if he fled or did not appear
21 that they could lose their property?

22 A. Yes.

23 Q. Are you all still willing to use your property to
24 secure any bond in this case?

25 A. Yes, sir.

1 Q. Are you willing to do that because you trust him to
2 come back to court?

3 A. Yes, sir.

4 Q. Have any concerns that he would flee the
5 jurisdiction if he got a bond?

6 A. No, sir.

7 Q. You concerned that he would leave the jurisdiction
8 and go back to Texas?

9 A. No.

10 Q. As it relates to Texas has he, since being here in
11 Tift -- in the Tifton area, expressed any desire to go
12 back to Tifton, go back there and live?

13 A. To Tifton?

14 Q. To Texas? I'm sorry.

15 A. No, sir.

16 Q. Has he expressed any desire to go to Mexico?

17 A. Not at all.

18 Q. As far as you know he has not lived in Mexico since
19 he was a little boy; is that right?

20 A. Yes, sir.

21 Q. Are you aware of the conditions that his two sons
22 live in, in Mexico?

23 A. Yes, sir.

24 Q. Would you describe to the Court where they live and
25 the conditions under which they live?

1 **A.** It's just a small room. It's -- this is like a big,
2 big room. It's just a little room. As far as I know,
3 it's just like a small house, I think. They live in a one
4 room. It's the living room, the bedroom and everything
5 together. They don't even have like walls. It's just one
6 room by itself.

7 **Q.** And how are you familiar with the layout there?

8 **A.** Because they talk to me sometimes, long time. I
9 haven't seen them since 2000, I guess.

10 **Q.** Have you seen any photographs of where they live?

11 **A.** Yes.

12 **Q.** And that's how you are also familiar with the layout
13 where they live?

14 **A.** Yes.

15 **Q.** If he was given bond in this case do you have any
16 concerns that he would threaten any witnesses --

17 **A.** No, sir.

18 **Q.** -- involved in this case?

19 **A.** No.

20 **Q.** Are you -- do you have any concerns that he would
21 obstruct justice in this case?

22 **A.** No.

23 **Q.** Interfere with any sort of ongoing investigation?

24 **A.** No.

25 **Q.** If he would be granted bond and allowed to go back

1 to the Tifton area do you believe that the community would
2 fear him coming back there?

3 A. No, sir.

4 Q. As far as you know has your uncle paid taxes since
5 he's been in the United States?

6 A. Yes, sir.

7 Q. And I think you provided me with a number of tax
8 returns, did you not, for Mr. Hidalgo?

9 A. Yes, sir.

10 Q. Does he have a reputation for being truthful in your
11 community?

12 A. Yes, sir.

13 Q. Let me focus a little bit on his finances. As it
14 relates to any financial stability that your uncle has, is
15 he a person who's flashed a lot of money?

16 A. No.

17 Q. As far as you know does he have a lot of money?

18 A. No.

19 Q. Have you ever seen him with a lot of money?

20 A. Not at all.

21 Q. You've testified that he drives a 1980-something
22 truck?

23 A. Yes.

24 Q. Has he ever driven any fancy cars?

25 A. No.

1 Q. Wear any fancy clothes?

2 A. No.

3 Q. As far as you know is he able to own his own
4 residence?

5 A. No.

6 Q. Does his lifestyle suggest that he has a lot of
7 money?

8 A. No.

9 Q. As it relates to any sort of identification that
10 your uncle possess, I think you provided me with a copy of
11 his permanent residence card; is that correct?

12 A. Yes, sir.

13 Q. A Georgia identification card?

14 A. Yes, sir.

15 Q. And a Social Security card?

16 A. Yes.

17 Q. As far as you know are any of those items forged or
18 fake?

19 A. No, sir. I would not provide the Court with fake
20 IDs from anybody.

21 Q. And you understand that I submitted those things to
22 the Court attached to a brief that I submitted to the
23 Court, correctly -- correct?

24 A. Yes.

25 Q. And those items that you provided me with, the three

1 items, the identification. Has your uncle ever been
2 accused of providing false identification to anyone?

3 A. No, sir.

4 Q. And I know I asked you about any passport. Are you
5 aware of your uncle ever trying to secure any sort of fake
6 passport?

7 A. No, sir.

8 Q. Has he ever been accused of forgery or identity
9 fraud?

10 A. No, sir.

11 Q. Are you and the family willing to, if the Court
12 would grant bond, be willing to pay for a GPS monitoring,
13 put him on a leg monitor so we'll know where he is at all
14 times?

15 A. Yes, sir.

16 Q. The family is willing to pay for that?

17 A. Yes, sir.

18 Q. In your opinion do you think that there's a need for
19 GPS monitoring if the Court says you stay in Tifton and
20 don't leave?

21 A. No, sir, because I know he won't go no where.

22 Q. As it relates to family members, you've been to
23 court now, I think, three days, last Friday, yesterday,
24 and today. You have other family members that have been
25 with you to court?

1 A. Yes, sir.

2 Q. And are family members here in the courtroom today?

3 A. Yes, sir.

4 Q. And are those individuals directly behind me?

5 A. Yes, sir.

6 Q. And I believe they're probably four or five people
7 here?

8 A. Yes, sir.

9 Q. And they are here to support Mr. Hidalgo?

10 A. Yes, sir.

11 Q. They have no concerns about him fleeing this
12 jurisdiction either?

13 A. No, sir.

14 Q. In fact, there were more people here last Friday in
15 support of him, wasn't there?

16 A. Yes, sir.

17 Q. Due to scheduling they could not be here today?

18 A. Yes, sir.

19 Q. So your entire family continues to support Mr.
20 Hidalgo; is that correct?

21 A. Yes, sir, because we love him.

22 Q. Are you going to continue to support him if he's
23 given a bond?

24 A. Yes, sir.

25 Q. You'll watch out for him?

1 A. All the time.

2 Q. Make sure he's in court whenever the Court directs
3 him to come?

4 A. Yes, sir.

5 Q. And do you believe that whatever conditions of bond,
6 if the Court sees fit to set a bond, that Mr. Hidalgo
7 will, in fact, abide by those conditions?

8 A. Yes, sir.

9 MR. HAUGABROOK: That's all I have, Your Honor.

10 THE COURT: All right. Ms. Bowen, before you
11 cross -- let me just in an abundance of caution because I
12 see Mr. Stokes out there. I don't see Mr. Martinez. Of
13 course, we have Ms. Tellez here, but this is directed to
14 defense counsel just so you understand, and I have not
15 made any decision. But if you put up a witness and make a
16 representation or the witness does that the Defendant can
17 live with them or they'd be a third party custodian, make
18 sure that person doesn't leave until we have a decision.

19 All right. Ms. Bowen, cross examination.

20 CROSS EXAMINATION

21 BY MS. BOWEN:

22 Q. Good afternoon, Ms. Tellez.

23 A. Good afternoon.

24 Q. You testified on direct that you are employed?

25 A. Yes.

1 Q. And is this full-time employment?

2 A. Yes, ma'am.

3 Q. And how many hours a week do you work?

4 A. Sometimes I work 50 hours a week.

5 Q. Eighty?

6 A. Fifty.

7 Q. Fifty. And you mentioned that you have two
8 children?

9 A. Yes, ma'am.

10 Q. I think you said a nine year old and a five year
11 old?

12 A. Yes, ma'am.

13 Q. I would imagine that they take up a lot of the time
14 that you're not at work?

15 A. Yes, ma'am.

16 Q. And you maintain your own household?

17 A. Yes, ma'am, me and my husband.

18 Q. So you and your husband and your two children live
19 together?

20 A. Yes, ma'am.

21 Q. What hours do you work now?

22 A. I work from 8 in the morning to mid-day, then I go
23 home and do what I have to do at home, I go pick up my
24 children, then I go back to work around 6:30, 7:00, then I
25 close at midnight.

1 Q. So most of your day from 8 a.m. to midnight you're
2 either at work or you're at your home or doing duties
3 related to your household management?

4 A. Yes, ma'am.

5 Q. And how long have you been keeping this schedule, if
6 you will?

7 A. How long I been doing that?

8 Q. Uh-huh.

9 A. I started with that hours, like, maybe a year ago.

10 Q. And before that were you also working at this
11 convenience store?

12 A. Yes. But I used to work only from 3 in the
13 afternoon until 9 p.m. I wasn't the manager back then.

14 Q. So you worked, what's it, six hours a day?

15 A. Yes, ma'am.

16 Q. And then the rest of your time would be with your
17 family?

18 A. Yes, ma'am.

19 Q. Those being your two children and your husband?

20 A. Yes, ma'am.

21 Q. Now, I think you testified on direct that Mr.
22 Hidalgo, you view him as a father?

23 A. Yes, ma'am.

24 Q. And he has been in Tifton for a year and a half?

25 A. Maybe -- maybe a little bit more, but I can't

1 remember exactly what time -- when he got here.

2 Q. Less than two years?

3 A. Yes, ma'am.

4 Q. And during that time the two of you have never
5 resided together?

6 A. What --

7 Q. Y'all did not live together?

8 A. No, ma'am.

9 Q. You testified on direct with abundant familiarity
10 about multiple aspects of his life? That's correct?

11 A. Yes, ma'am.

12 Q. Before he moved to Tifton you were still living in
13 -- Let me rephrase that. You've resided in Tifton for how
14 long you said?

15 A. Fifteen years.

16 Q. Fifteen years. He's been here for less than two
17 years?

18 A. Yes, ma'am.

19 Q. So would the majority of your contact with Mr.
20 Hidalgo -- I think you said y'all get together on the
21 weekends?

22 A. Yes, ma'am.

23 Q. On Sundays in particular, have Sunday dinners?

24 A. Yes. Well, actually, it's Sunday breakfast.

25 Q. Sunday breakfast. Okay. How long do those

1 breakfast last?

2 A. We could be in the house for maybe three hours or
3 all day together.

4 Q. And would this constitute probably your primary
5 contact with Mr. Hidalgo due to your busy schedule? Is
6 this when you most frequently would see him?

7 A. (No audible response).

8 Q. So three hours on Sunday mornings?

9 A. Yes, ma'am.

10 Q. Now, these breakfast on Sundays, Jessica Tellez,
11 she's your sister?

12 A. Yes, ma'am.

13 Q. And I imagine she would also be at these breakfast?

14 A. Yes, ma'am.

15 Q. And her husband is José Martinez?

16 A. Yes.

17 Q. And you're familiar with him as well?

18 A. Yes, ma'am. We're family.

19 Q. And how long have you known José Martinez?

20 A. When he met my sister.

21 Q. And how long ago was that?

22 A. Three years ago.

23 Q. Are you familiar with a blue Honda Odyssey minivan
24 that Mr. Hidalgo drives?

25 A. Blue?

1 Q. A light blue?

2 A. Yeah.

3 Q. Are you familiar with that vehicle?

4 A. (No audible response).

5 Q. And you're familiar that Mr. Hidalgo drives that
6 van?

7 A. Sometimes. It's my aunty's minivan.

8 Q. And when you say your aunty, are you referring to
9 Carmen?

10 A. Carmen.

11 Q. Are you aware that Mr. Hidalgo takes frequent trips
12 to Atlanta?

13 A. No, ma'am.

14 Q. I think you testified on direct that Mr. Hidalgo
15 supports the household where he lives. And the people
16 that live in that household are himself and your Aunt
17 Carmen?

18 A. Yes, ma'am.

19 Q. You also mentioned his two grown children who live
20 in Mexico?

21 A. Yes, ma'am.

22 Q. You mentioned that he had prior employment I believe
23 working in metal?

24 A. Yes, ma'am.

25 Q. When was that employment?

1 A. When he got here after, like, three weeks I think he
2 started working there. I don't remember really good, but
3 I think that's when he started working in there.

4 Q. Okay. How long did he work there after his arrival
5 here in Tifton less than two years ago?

6 A. I can tell you, like, six months or something like
7 that.

8 Q. Okay. So following that did he immediately go into
9 working for Mr. Martinez in agriculture or was there a
10 break or how long did he do that?

11 A. There was a break.

12 Q. Okay. A break.

13 A. Yes. I think that's when he went to see his sons
14 and came back.

15 Q. Okay. So he gets here less than two years ago, he
16 works at the metal place, if you will, for about six
17 months, goes back to Mexico, and I think you said he was
18 there for a month?

19 A. Less than that. He went to meet his grandchildren
20 because he didn't know them.

21 Q. Okay. He comes back and then he gets a job working
22 in agriculture?

23 A. Yes.

24 Q. Okay. Now, how long did he have that job?

25 A. I have no idea. I knew he was working in there.

1 Q. Did he have that job in 2014?

2 A. Yes, ma'am.

3 Q. Did he have it -- how many months in 2014, to your
4 knowledge?

5 A. To my knowledge it's not really good because I
6 didn't used to talk to him every day.

7 Q. Okay. So perhaps you're not that familiar then with
8 his source of income, what he does on a day to day basis?

9 A. Exactly. I don't know exactly what he does day to
10 day. I know he used to work in the agriculture thing, but
11 I don't know how many hours or anything like that.

12 Q. Okay. Are you aware then -- I think you testified
13 that you're not -- excuse me -- you don't have any
14 knowledge about him having access to any significant
15 amount of money?

16 A. No, ma'am.

17 Q. Would you consider \$225,000 significant?

18 A. Of course.

19 Q. And are you aware that on September 25th, 2014, Mr.
20 Hidalgo was arrested in sole possession of \$225,000?

21 A. Yes. I saw the paper they gave me to read.

22 Q. I think you mentioned that there was a job
23 opportunity for Mr. Hidalgo?

24 A. Yes, ma'am.

25 Q. But this is an opportunity and he has not previously

1 worked at this place of business?

2 A. No, ma'am.

3 Q. I think you testified on direct that you would make
4 sure that he did what the Court told him to do?

5 A. Yes, ma'am.

6 Q. Okay. But you work approximately 50 hours a week,
7 you have a husband, you have two small children, you
8 maintain your own household; is that correct?

9 A. Yes, ma'am.

10 Q. And you've just said that you were not familiar what
11 he does on a day to day activity?

12 A. I talk to my aunty every day, to Carmen, and I
13 always ask her about my uncle.

14 Q. Okay.

15 A. Because we are a really close family.

16 Q. All right. So you rely on the communication via
17 telephone and others and to, I guess, make that
18 determination or ascertain where he is and what he's
19 doing?

20 A. Yes. I know him, and I know he won't do nothing he
21 don't supposed to do.

22 Q. Would you say the same thing about your sister?

23 A. Yes, ma'am. That's my sister.

24 Q. Right. I understand that. Would you say the same
25 thing about José Martinez?

1 A. Yes, ma'am.

2 Q. Are you also aware that they were arrested on that
3 same date following Mr. Hidalgo with the money on the way
4 to pay for cocaine?

5 A. I don't know exactly about that. I find out they
6 were in custody because they call me around 9:00 p.m. I
7 didn't even know what was going on.

8 Q. So is it fair to say that whatever the facts may be
9 or whatever someone may tell you, what you see and hear is
10 that they are your family?

11 A. Yes, ma'am.

12 MS. BOWEN: That's all I have.

13 THE COURT: All right. Anything further, Mr.
14 Haugabrook?

15 MR. HAUGABROOK: Just briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. HAUGABROOK:

18 Q. Ms. Tellez, the fact that you all are family does
19 that in any way affect whether or not you're willing to
20 make sure that they abide by any -- or Mr. Hidalgo abides
21 by any conditions that the bond -- that the Court may set
22 in terms of a bond?

23 A. Can you repeat that?

24 Q. Are you willing to make sure, as best you can, that
25 Mr. Hidalgo would abide by any bond conditions in this

1 case?

2 A. Yes, sir.

3 Q. On cross examination the government asked you about
4 your aunt who is Mr. Hidalgo's sister. Carmen is here in
5 the courtroom; is she not?

6 A. Yes, sir.

7 Q. She does not speak English, does she?

8 A. No, sir.

9 Q. And you have talked with her about this case,
10 correct?

11 A. Yes, sir.

12 Q. And you stay in frequent contact with her?

13 A. Yes, sir.

14 Q. And I think you just testified pretty much on a
15 daily basis?

16 A. Yes, sir. We can -- we might speak, like, two,
17 three times a day.

18 Q. And you inquire about Mr. Hidalgo?

19 A. Yes.

20 Q. Has she ever told you anything about Mr. Hidalgo
21 being in possession of any drugs or guns or anything like
22 that?

23 A. No, sir.

24 Q. The employment opportunity with A&V, do you have any
25 reason to doubt that he would not be hired there?

1 A. No, sir.

2 Q. Do you believe that the gentleman that provided you
3 the letter will in -- will, in fact, hire him?

4 A. Yes, sir.

5 Q. The \$225,000 that was found in the van that Mr.
6 Hidalgo was driving, do you know anything about that?

7 A. No, sir.

8 Q. Has Mr. Hidalgo lived any sort of lifestyle to
9 suggest that he has \$225,000?

10 A. Not at all.

11 Q. Now, you also talked about seeing your uncle on
12 Sunday?

13 A. Yes, sir.

14 Q. Do you have the occasion to talk with him over the
15 phone during the week from time to time?

16 A. Sometimes.

17 Q. And just kind of chit chat, how he's doing, how you
18 all are doing?

19 A. Yes, sir. It's just like a father. Always
20 protecting us.

21 Q. And when you say that, although you work, you still
22 talk with him and communicate with him?

23 A. Yes, sir.

24 Q. And that's during the week other than on Sunday
25 mornings?

1 A. (No audible response).

2 Q. And I think you described the Sunday morning get
3 togethers, sometimes three hours, sometimes all day?

4 A. Yes, sir.

5 Q. The fact that you work 50 hours a week and have your
6 own family to attend to, would you still have time to
7 check on Mr. Hidalgo?

8 A. Yes, sir.

9 Q. Would you be willing to sacrifice some of your
10 personal time to make sure that he does what he needs to
11 do by way of complying with any bond conditions in this
12 case?

13 A. Yes, sir. That's what I'm doing right now.

14 Q. Is your family in any way going lacking at this
15 point because you're taking time to be here?

16 A. No.

17 Q. Are you in any way losing any favor on your job
18 because you've taken off three days to be in court?

19 A. No, sir.

20 Q. Will you be able to do that in the future?

21 A. Yes, sir.

22 Q. And I think you testified that you are, in fact, the
23 store manager?

24 A. Yes, sir.

25 Q. So they've entrusted you greatly, correct?

1 **A.** Yes, sir.

2 MR. HAUGABROOK: That's all I have, Your Honor.

3 THE COURT: All right. Anything further, Ms.

4 Bowen?

5 MS. BOWEN: No, Your Honor.

6 THE COURT: All right. Ms. Tellez, thank you,

7 ma'am. You may step down.

8 All right. Mr. Haugabrook, anything further on

9 behalf of Mr. Hidalgo?

10 MR. HAUGABROOK: Nothing, Your Honor.

11 THE COURT: All right. Very well. Any rebuttal,

12 Ms. Bowen?

13 MS. BOWEN: No.

14 THE COURT: I think we're ready to close then.

15 Let's see, Ms. Bowen, the government still has the burden.

16 Do you want to reserve?

17 MS. BOWEN: Yes, sir.

18 THE COURT: All right. We'll go in the order

19 we've been going for any closing remarks that counsel may

20 want to make. Ms. Williams, I'll start with you.

21 **DEFENDANT CARTER CLOSING ARGUMENT**

22 MS. WILLIAMS: I would ask that you would set a

23 bond for Mr. Carter. I understand that the government

24 filed a motion to detain. I also understand that the

25 government has, in fact, invoked the rebuttable

1 presumption based on the nature of the charges with
2 respect to Mr. Carter.

3 However, I will submit that during this detention
4 hearing we have submitted evidence that the Court can
5 rely on, to believe that there are conditions in which --
6 or which the Judge could, in fact, set a bond for Mr.
7 Carter.

8 We heard from an uncle, Mr. Stokes. He indicated
9 that my client has lived in the Omega, Georgia, area for
10 his entire life. Mr. Carter is approximately 37 years of
11 age. From the bail report we know that he has three
12 children. Mr. Stokes also indicated that Mr. Carter has
13 many family members in the Omega and Tifton area.

14 That Mr. Carter does not frequently travel
15 outside the State of Georgia, and that he frequently sees
16 Mr. Carter on a daily basis, that he's known him his
17 entire life, and based on the relationship that he had
18 with Mr. Carter, that he would not be concerned about Mr.
19 Carter being a flight risk.

20 In addition, he did not feel that Mr. Carter
21 would be a danger to the community. He was not afraid of
22 my client. He had never seen my client with any drugs,
23 and he had never seen my client engaged in any fights or
24 any physical altercations with anyone.

25 Additionally, Mr. Stokes testified that if my

1 client were given a bond, that he would be willing to
2 allow my client to reside with him. Now, Mr. Stokes is
3 his uncle. This is an individual that is retired from the
4 military. At this time he works as an adjunct professor
5 and a bailiff. He has never been arrested before. I
6 would submit that the Court could rely on Mr. Stokes'
7 judgment based on his character.

8 Mr. Carter, although charged with a serious
9 offense, these are mere allegations at this time and he
10 still enjoys the presumption of innocence.

11 I understand that the Court does, in fact, have
12 to take into account the nature of the charge. However,
13 there are other factors for the Court to consider when
14 making a decision with respect to whether or not to grant
15 a bond for my client. I would submit that based on Mr.
16 Stokes's testimony that there is enough evidence for the
17 Court to find that the -- that Mr. Carter has, in fact,
18 rebutted the presumption that he would be a danger to the
19 community or a flight risk.

20 Additionally, I proffered on behalf of Pastor
21 Lindsey that my client attended church, that he trusted
22 Mr. Lindsey (sic), that he'd never seen him with any drugs
23 or with any weapons, and that he would allow him to assist
24 with offering and also praying over the money.

25 I would suggest that if the Court were inclined

1 to grant a bond for Mr. Carter that the Court would
2 require Mr. Carter to reside with his uncle, Mr. Stokes,
3 who is currently in the courtroom at this time.

4 We'd also ask that the Court would consider an
5 ankle monitor if the Court were concerned. I definitely
6 understand from a review of the Pretrial Services Report
7 that my client has some criminal history, but I do believe
8 that an ankle monitor would, in fact, limit my client's
9 travel, especially if that monitor required a stringent
10 curfew in addition to pretrial supervision.

11 We would suggest that the Court require my client
12 to also submit to random drug screens.

13 I believe that with those conditions and any
14 others that the Court would require such as that he not
15 have any weapons, which we would not have any reason for
16 him to have any, of course.

17 That the Court could rest assured that my client
18 would, in fact, report to Court as instructed and that he
19 would not commit any crimes or pose a danger or a threat
20 to the community.

21 THE COURT: Thank you, Ms. Williams. All right.
22 Mr. Walker.

23 **DEFENDANT MARTINEZ CLOSING ARGUMENT**

24 MR. WALKER: Thank you. For the sake of brevity,
25 Your Honor, my argument will basically mirror Ms. Williams

1 as it relates to Mr. Martinez's, and we would submit to
2 the Court that -- that the only difference is that there
3 exists no evidence whatsoever that's been presented before
4 this Court that my client has ever had -- in possession a
5 firearm at any time during the alleged charges.

6 In addition, as it relates to the evidence
7 submitted before the Court is that my client did have a
8 small amount of contraband on his person when he was
9 stopped.

10 However, Your Honor, we would submit that he's
11 entitled to a bond. You've heard from his brother, albeit
12 a family member. That's oftentimes all that we have. And
13 as the Court may recall, Mr. Martinez, Sergio Martinez,
14 indicated he had 11 siblings along with an additional ten
15 or so children that live in close proximity to his home
16 including Mr. and Mrs. Martinez Tellez, and refer to José
17 Martinez as relation to close proximity, along with other
18 family members.

19 You've heard testimony that they -- they attend a
20 private church, all family-oriented, and work together.

21 Mr. Martinez -- Mr. Sergio Martinez, there's been
22 no evidence here to impugn his character and rely -- we
23 submit you can rely on his character and his ability over
24 the past 53 years, he's not been in any trouble, he's --
25 he maintains a successful business, and he otherwise

1 employs over a hundred individuals.

2 He indicated to the Court that he would otherwise
3 do whatever it took to assure this Court and to take on
4 the obligations to assure this Court that he would
5 otherwise make sure that Mr. José Martinez abided by any
6 rules or stipulations that the Court may fashion and
7 order, if he was otherwise granted bond, to include
8 allowing him to live in his home.

9 I would submit to the Court that the government
10 has somewhat tried to elicit some type of testimony that
11 would indicate that there's some -- may be some violence
12 as it relates to the -- a previous case regarding Mr. José
13 Martinez's sister. But I would submit to you, Your Honor,
14 that Mr. Sergio Martinez, who obviously is close to his
15 family, testified before Your Honor that he had no
16 evidence of that other than a -- a conversation with, I
17 think, a Gary Vowell that was not indicative of any type
18 of relation to -- to any type of prior history or charge
19 that Mr. José Martinez had.

20 In addition, I would state to the Court that if
21 he was otherwise concerned with such type of violence,
22 especially if it's his family, why would he invite his
23 brother into his home to assure this Court that he would
24 abide by any stipulations that the Court would otherwise
25 grant to him if given bond. I don't think he would.

1 He sits here before you, Your Honor, and stated
2 in this court, and he's here. I think he may have stepped
3 out earlier as the Court noted based upon the fact that I
4 did not indicate that he otherwise was released, and I
5 think he thought he was still under the Rule, Your Honor.
6 However, he is here and he's here to do whatever he can to
7 assist his brother.

8 And we would submit, at this particular time,
9 these are mere allegations, and he ought to be afforded
10 the opportunity. His wife, Ms. Tellez, obviously she's a
11 -- a Defendant in this case, and she is living down the
12 road. They have -- Mr. José Martinez has two children
13 from a previous marriage and has two children living in
14 his home with his wife now. He desperately needs to be at
15 home during this time period, to continuous employment to
16 help prepare for his defense in this case. And we would
17 submit to the Court that any -- any stipulation as it
18 relates to GPS monitoring or requiring him to otherwise
19 live with his brother in his home, to be under constant, I
20 guess, surveillance of his brother, that Mr. Sergio
21 Martinez would take on that obligation.

22 And we believe that a curfew, if that would be
23 what the Court required or otherwise limited Mr. José
24 Martinez' employment to the immediate Tifton area for his
25 employment, that those type of conditions would otherwise

1 be satisfactory, otherwise that would allow him to be
2 released on bond.

3 I believe the Court will recall the testimony was
4 that -- that there was no history of any violence, there
5 was no -- any threat of any particular person, that Mr.
6 Sergio Martinez testified that he -- he did not pose a
7 significant risk to any person or property in the
8 community, and he would appear when he was required to. I
9 think the -- there was some innuendo as a vacation to
10 Texas on one occasion. But the Pretrial Services Report
11 indicates that my client has made a trip to Mexico, I
12 believe, one time, some 20 years ago to visit his
13 grandparents. He has no passport and he does not travel
14 outside the State of Georgia on a regular basis other than
15 that one occasion that was referred to of going to Texas.

16 With that, Your Honor, we would -- we would ask
17 the Court to set a bail -- a reasonable bond on behalf of
18 Mr. Martinez and we would abide by any conditions so
19 fashioned before the Court. Thank you, Your Honor.

20 THE COURT: Thank you, Mr. Walker. Mr.
21 Haugabrook.

22 **DEFENDANT HIDALGO CLOSING ARGUMENT**

23 MR. HAUGABROOK: Thank you, Your Honor. Judge,
24 as I -- as I looked at this case right before coming over,
25 it sort of dawned on me as it relates to the requirements

1 under 18 USC 3142. I really want to address the Court
2 from two standpoints. First, to deal with this probable
3 cause issue that's outlined in 3142.

4 As the Court is aware when the rebuttable
5 presumption kicks in, that code section states that it
6 shall be presumed that no condition or combination of
7 conditions will reasonably assure the appearance of the
8 person as required in the safety of the community if the
9 judicial officer finds there is probable cause to believe
10 that the person committed an offense that's ten years or
11 more.

12 And I mention that first, Your Honor, simply
13 because in this case it's alleged that my client is
14 involved with some drug conspiracy. And, of course, it is
15 incumbent at this point that the Court do find or does
16 find that probable cause -- that he actually engaged or
17 committed that offense that's outlined in Count One.

18 As it relates to conspiracy, as the Court is well
19 aware -- and I'm not going to try and argue this, Your
20 Honor, as though I'm in front of a jury, but I think it is
21 worth noting because of the probable cause language in
22 that statute as it relates to this case from a conspiracy
23 standpoint, I think it's incumbent upon the government to
24 present some evidence to fulfill that obligation of
25 probable cause that Mr. Hidalgo has actually engaged in a

1 conspiracy here.

2 The prongs to a conspiracy is that the government
3 must show not only that he gave drugs to some other person
4 knowingly to distribute them, but it also requires that
5 there be an agreement between my client and some other
6 individuals. And I would cite to the Court United States
7 v. Lennick, L-E-N-N-I-C-K, 18 F.3d 814 at 819.

8 And I bring that to the Court's attention because
9 in this case, Your Honor, I don't think that there's any
10 evidence that the government has put before this Court
11 that even suggests that my client conspired with anyone to
12 pool his money, his resources to purchase any amount of
13 cocaine. There's no evidence whatsoever that he had an
14 agreement to buy or distribute any cocaine.

15 So from a probable cause standpoint, Your Honor,
16 I do believe that I -- I certainly would ask the Court to
17 look at that section of 3142 as it engages in its analysis
18 as to whether or not my client should be granted bond in
19 this case.

20 When asked of the agent on the stand whether or
21 not Mr. Hidalgo sold, possessed, transported any cocaine,
22 I think the answer was there was no evidence to support
23 that.

24 When I asked him was there any evidence that he
25 encouraged anyone to buy, sell, transport, engage in any

1 sort of drug activity, he could not provide that to the
2 Court.

3 I asked whether or not my client was a middle
4 man, had he orchestrated any sort of drug deal, whether --
5 and I think the agent used the word broker a deal. He
6 said, no.

7 So, Your Honor, I would submit to this Court that
8 based on the testimony of Agent Luke in this case, and I
9 brought this out very clearly on cross examination, what
10 we have here as it relates to Mr. Hidalgo is that he was a
11 money courier.

12 And the issue with that, Your Honor, is that I
13 don't think there was any evidence to present -- that was
14 presented to this Court that my client knew anything about
15 the drugs.

16 As to the testimony, if I remember correctly,
17 Your Honor, was that there was a Hispanic female who put a
18 bag in my client's vehicle. Hence, wasn't any testimony
19 that my client touched the bag, opened the bag, looked in
20 the bag, had anything to do with it. Now, whether or not
21 he should have known what's in the bag, Your Honor, I -- I
22 would submit to this Court that's a -- probably an issue
23 for a jury to decide.

24 But in terms of today, I just don't believe, Your
25 Honor, that the government has met that probable cause

1 burden as it relates to my client.

2 Now, the government may argue that certainly my
3 client was a money carrier. But there are statements on
4 the wiretaps that suggest that maybe he was involved.
5 But, again, Your Honor, those statements that were made
6 that the agent testified about were conversations that
7 were between Mr. Martinez and Mr. Carter in this case,
8 nothing to suggest that my client was present, nothing to
9 suggest that my client knew those statements were being
10 made, didn't authorize those statements to be made. Those
11 were just statements made between two individuals who are
12 alleged to be involved in this conspiracy.

13 This is the government's motion to detain my
14 client, and the burden to prove that there is some
15 probable cause that exists to show a conspiracy rests on
16 the government, Judge. They, in fact, testified through
17 Agent Luke that they did debrief Mr. Carter and Mr.
18 Martinez. And I believe the agent testified that those
19 debriefings or brief interviews were about two hours each.

20 Well, these individuals have been in custody,
21 Your Honor, since September the 25th or September 26th,
22 three and a half months. They certainly could have gone
23 back and shored up whether or not Mr. Hidalgo had any
24 knowledge about drugs being purchased in Atlanta. They
25 have not done it. The burden, again, rests with the

1 government. They could have taken the time in at least
2 three and a half months, Your Honor, to go back to make
3 sure that Mr. Hidalgo was involved with the conspiracy or
4 whether he was, as the agent testified, a money courier.
5 They didn't do it, Your Honor.

6 And so for that reason, Judge, from the first
7 standpoint of probable cause, I don't believe that it's
8 been met. And for those reasons, Judge, I would submit to
9 the Court that the Court does not find that there's been
10 probable cause to even suggest that my client was involved
11 in a conspiracy. What the evidence at this point suggests
12 is that he was caught with \$225,000 in a bag given to him,
13 placed in that vehicle, without any evidence that he
14 looked in -- in it, and he was stopped. That's it.

15 Now, Judge, presuming that the Court believes
16 that there is probable cause, that no conditions have been
17 met or can be set in this case to assure my client's
18 presence or that he's not a danger, the rebuttable
19 presumption kicks in. And that being said, the burden is
20 now placed on us to present evidence or to produce some
21 evidence, Judge, to rebut that presumption.

22 And I'll start with the danger, Your Honor,
23 because I think that's probably the easiest one to deal
24 with. Dangerousness from my client's standpoint, there is
25 nothing to suggest that he's a danger. No weapons in this

1 case, Your Honor. Nothing was ever found on him by way of
2 weapons. Testimony that was presented to you by Ms.
3 Tellez, Judge, she's never known him to carry a weapon.

4 I asked the agent is there anything in my
5 client's criminal history of violence? Nothing. In fact,
6 the Pretrial Services Report indicates only a DUI from
7 2004, Judge.

8 He's cooperated. When he was pulled over, he
9 immediately pulled to the side of the road, did not try to
10 run, did not try to fight, didn't provide any false name,
11 didn't give any aliases. He simply cooperated with them.

12 Now, the government must show by clear and
13 convincing evidence that somehow he's a danger to the
14 community. And some of the cases that I would cite to the
15 Court is one out of this particular Circuit by the former
16 Chief Judge Wilbur D. Owens, US versus Jeffries, 679
17 F.Supp. 1114 found at page 1118, states that the
18 government must show by clear and convincing evidence that
19 the Defendant will continue to traffic in drugs if he's
20 released on bond. So it's not that we can look back at
21 something he's done in the past, if the burden is on the
22 government to present to this Court or should have
23 presented to this Court that if my client gets out on bond
24 he's going to go and traffic in drugs.

25 Judge Owens, in that opinion, said it must be

1 clear and convincing. There's nothing here, Your Honor.
2 I asked the agent about whether or not my client was
3 affiliated with anyone in the past with drugs? Did not
4 know.

5 I would submit to the Court, Your Honor, that my
6 client has not been affiliated with anyone in the drug
7 activity prior to this incident.

8 I think the government has just failed to
9 establish any evidence before this Court, Your Honor, that
10 my client would do -- engage in any sort of illegal
11 activity.

12 As the Court will recall I asked the agent, do
13 you have any evidence, is there anything to suggest that
14 if my client gets out he's going to be violent, he's going
15 to commit a criminal act, he's going to engage in any
16 further criminal activity? He didn't know. Yet he's the
17 lead agent who's investigating this matter. No evidence
18 that my client has ties to anyone else that might be in
19 the drug business. No evidence in the past of drug
20 activity, Judge.

21 So from that standpoint I don't believe, Your
22 Honor, that the government has met that burden as outlined
23 by Chief Judge Wilbur D. Owens in US v. Jeffries.

24 We presented testimony that my client is
25 peaceful, he's gentle, he's never carried any weapons,

1 never been violent in the past, never destroyed anyone's
2 property, never threatened or intimidated anyone, never
3 injured anyone, never pulled a gun or a knife on anyone.
4 There's absolutely nothing here, Your Honor, to suggest
5 that Mr. Hidalgo is a danger to the community or to any
6 person.

7 Therefore, the government has failed, in my
8 opinion, Judge, to carry its burden of persuasion on this
9 point, and the Defendant has presented sufficient evidence
10 to rebut that presumption.

11 Again, Judge, it's just simply nothing here to
12 suggest that my client has done anything but possess money
13 that was given to him by another party involved in this
14 case.

15 Looking at the flight risk, and I presume the
16 presumption, Judge, is going to be he's facing a ten year
17 sentence and, therefore, there's no presumption or
18 conditions that this Court could set. Statutorily, Judge,
19 I think that is absolutely correct. That is what the
20 statute says for this particular offense; however, I would
21 submit to this Court in reality, as this Court is well
22 aware, if my client is convicted in this case with no
23 criminal history other than a DUI in 2004, if he's
24 convicted, Judge, I think the Court would be well within
25 its purview to consider the fact that the acceptance of

1 responsibility would kick in and safety valve.

2 We've outlined this, Judge, in our brief for the
3 Court that we filed on Friday, that in my conversations
4 with probation to confirm that, if he is convicted based
5 on what's alleged in Count One, and that's the only count
6 that my client has been charged with, acceptance of
7 responsibility and safety valve would put him at 70 to 87
8 months. That's a far cry, Your Honor, from life. It's
9 not a far cry from ten years, but it certainly is six to
10 seven years, it's much less than the ten years that is
11 presumed in this case.

12 I presume, Your Honor, there's some concern about
13 my client's ties to Texas. That's where he came in terms
14 of the Pretrial Services Report with his parents when he
15 was nine years old. I think in the government's brief
16 they allege that my client himself came to the United
17 States illegally. I would submit to the Court, Your
18 Honor, being from south Georgia that if my parents told me
19 I'm going to California at the age of nine, I'm going to
20 California, I have no say so in the matter. So it's not
21 that he came to the United States illegally, if that's, in
22 fact, the case. We've not heard any evidence to that,
23 that's been presented. He came at the age of nine when he
24 was a child, Your Honor. After he got here, became a man,
25 he applied for his permanent resident card. We attached

1 that, Your Honor, to our brief to show to the Court that
2 he is a permanent resident in the United States at this
3 point.

4 He owns no property in Texas, Your Honor. He's
5 traveled to Texas certainly because he lived there most of
6 his life since being here in the United States. But he
7 doesn't have any relatives there, doesn't have any
8 property there. According to his niece that testified he
9 has no concerns, no admiration, no desire to return to
10 Texas. And, Your Honor, he certainly does not have any
11 desires to return to Mexico and live in what Ms. Tellez
12 described as horrendous conditions.

13 He does have two sons there, but according to the
14 Pretrial Service Report, Your Honor, there's very little
15 contact with those kids. Well, not kids, they're grown
16 men. So, Your Honor, from that standpoint, I certainly
17 don't believe that there should be any concern as it
18 relates to him going back to Texas, and certainly not to
19 Mexico.

20 And as I set forth in my brief that I filed last
21 week, Your Honor, from the Mexico standpoint, certainly
22 we've got an extradition treaty with Mexico. If the Court
23 is concerned about him going to Texas, certainly that's
24 within the borders of the United States, the Marshal
25 service can certainly find him and bring him back. In

1 addition the Court could certainly limit, as I've seen the
2 Court do in numerous of my cases before this Court,
3 restrict my client's travel, and make it so that he only
4 remains here in the State of Georgia.

5 In closing and wrapping this up, Your Honor, the
6 other factors that are set forth in 3142, my client
7 doesn't own a passport, doesn't have any travel documents
8 to travel outside or to any other state. He has strong
9 ties to Tifton. All of his relatives, with the exception
10 of his two sons that are in Mexico, everyone, Your Honor,
11 reside in Tifton. He has employment here or employment
12 opportunity.

13 In his past there are no bench warrants, no
14 failure to appear. Certainly I think that probation would
15 have outlined for the Court if my client had failed to
16 appear or if there was a bench warrant. I've looked at
17 his criminal history, even talked with the agent about it
18 on cross examination. There's just nothing there that
19 suggests and I think confirms, Your Honor that my client
20 abides by what the conditions that the Court sets upon
21 him.

22 He dealt with that DUI successfully. Ms. Tellez
23 testified about him being responsible. He's well liked in
24 the community. Again, Your Honor, from the -- from those
25 factors that are in subsection (g) of 3142, he's only

1 facing, if convicted in this case, by my calculations, of
2 being six to seven years. Didn't try to flee, he
3 cooperated in this case, didn't put up a fight, has no
4 felony convictions, no substance abuse issues.

5 One of the other factors under subsection (g),
6 Your Honor, is the weight of the evidence. And that's why
7 I said it was important from a probable cause standpoint.
8 I think that the weight of the evidence in this case, Your
9 Honor, is very weak.

10 What we have, again, is Mr. Hidalgo being a money
11 courier. No evidence, Your Honor, that he's handled,
12 packaged, distributed, sold any drugs in this case.
13 Nothing even suggests, Your Honor, that he encouraged
14 anyone to get in the drug business or to have anything to
15 do with any cocaine.

16 I think two of the strongest points, Your Honor,
17 that suggests that the weight of the evidence in this case
18 is pretty weak against my client and also support my
19 arguments here is the government's own exhibits, Exhibits
20 Number 2 and Exhibits -- Exhibit Number 8.

21 If my client is, as the government suggests, a
22 conspirator, Judge, when we listen to the tape and looked
23 at the transcript as it relates to Exhibit Number 2, I
24 think Mister -- it's alleged that Mr. Martinez was talking
25 to someone out in Texas, trying to get some better

1 connection. Well, he's talking allegedly to Mr. Carter.

2 In that transcript, page 3 of Exhibit 2, I think
3 Mr. Martinez tells Mr. Carter about these folk want
4 everything, they want to know who my partner is.

5 Interestingly, Your Honor, he does not identify
6 Mr. Hidalgo as his partner. That's the government's own
7 exhibit.

8 Mr. Martinez says they want to know everything,
9 I've got to tell them where we live. Allegedly Mr. Carter
10 says, "Even me?" But when he asks about partner, he does
11 not identify Mr. Hidalgo.

12 In Exhibit 8, Your Honor, there's conversations,
13 again, allegedly between Mr. Martinez and Mr. Carter
14 talking about going to get some cocaine, I presume, on a
15 Friday. That transcript is very clear. Mr. Martinez says
16 my driver is not available on Friday. He does not say my
17 paw-in-law, does not say Mr. Hidalgo is not available. He
18 says my driver, and allegedly asks Mr. Carter can he send
19 his paw. If my client, again, Your Honor, was part of the
20 drug conspiracy, had anything to do with cocaine, the
21 purchasing, packaging, transporting cocaine, I believe
22 that conversation would have said something to the effect
23 "Mr. Hidalgo is my partner" meaning out here in Texas.
24 Oh, we need to go get this cocaine on Friday, let me send
25 my paw-in-law to get this cocaine. He doesn't do that,

1 Your Honor.

2 I think the government's own exhibits here
3 clearly indicate that my client is simply a money courier
4 on a couple of occasions, that being the 25th and the 19th
5 of September.

6 Your Honor, I think in this case, and
7 respectfully, I ask the Court to also take under -- take
8 into consideration, and we've set this out in our brief as
9 well, the fact that bond has been granted to four
10 individuals in this case already. Those individuals are
11 James Waters, Latoris Waters, Kayla Carter, Diamond
12 Carter. I mention them, Your Honor, and I understand that
13 each case rests on its own merits. But I do bring it to
14 the Court's attention simply because in this case my
15 client is only charged in the conspiracy count.

16 These four individuals that I just listed, Your
17 Honor, not only are listed in the conspiracy count, but
18 they are also listed in several other counts as possessing
19 four or five weapons and maintaining a drug house. My
20 client is not charged with that, Your Honor. And I would
21 submit to the Court that cuts against the danger argument
22 as well.

23 And if the Court would consider bond in a case
24 where these four individuals have multiple guns,
25 maintaining a drug house, certainly, Your Honor, I would

1 ask the Court respectfully to consider a bond in this case
2 for Mr. Hidalgo, who is not charged with ever having a
3 gun, ever doing any violence. Fifty-eight year old man,
4 hard working, family man, who lives a very meager life,
5 Your Honor. A 30-year-old trailer he lives in that might
6 be worth \$1,000. Drives a 30-year-old 1985 Chevy S10.
7 Doesn't sound like to me, Your Honor, he has very much
8 resources, and that certainly cuts against the argument
9 that the government has laid out.

10 Your Honor, I think we have met and overcome the
11 rebuttable -- rebuttable presumption in this case. I
12 think we've demonstrated quite sufficiently that he's not
13 a flight risk. He's got sufficient ties. He's not a
14 danger. Having done so, the burden shifts back to the
15 government, and that burden is the burden of persuasion.
16 I don't think that they've met that burden, Your Honor.
17 There's no clear and convincing evidence that he's a
18 danger, that he's going to flee.

19 I would ask the Court in this case, Your Honor,
20 respectfully to consider setting a very similar bond as
21 the Court has set in the other four cases, a \$10,000,
22 whether it be secured or unsecured, bond or secured ten
23 percent.

24 I would ask the Court to also consider GPS
25 monitoring. Ms. Tellez testified that they are willing to

1 -- to pay for that.

2 Judge, we could look at home confinement, regular
3 reporting to probation. I think all of those things are
4 available to this Court.

5 I think we've got credible evidence before this
6 Court. I think there's a lack of evidence by the
7 government to carry their burden in this case, and I will
8 sit down on this note that was outlined in US v. Salerno,
9 481 US 739, where our Supreme Court said, "In our society
10 liberty is the norm and detention prior to trial or
11 without trial is the carefully, carefully, limited
12 exception."

13 Based on that, Your Honor, I would certainly ask
14 the Court to consider our brief in conjunction with our
15 arguments here today, deny the motion that the government
16 has filed for detention, and reasonably set forth a bond
17 for Mr. Hidalgo, a simple money courier. Thank you, Your
18 Honor.

19 THE COURT: Thank you, Mr. Haugabrook. And
20 before we hear from the government, I'll invite everyone
21 to stand up and stretch a minute. We've been going two
22 hours.

23 (Stretch break)

24 All right. If everybody can have a seat, we'll
25 hear from Ms. Bowen on behalf of the government.

1 **GOVERNMENT CLOSING ARGUMENT**

2 MS. BOWEN: Your Honor, before I begin the
3 argument, the government does not suggest that Mr. Hidalgo
4 is a co-conspirator in a significant, more than 5 kilogram
5 cocaine conspiracy and 280 grams of cocaine base
6 conspiracy. That has been found by a properly empanelled
7 Grand Jury, that probable cause determination has already
8 been made. We're not here, and we have not been here
9 yesterday, to proceed in a preliminary evidence hearing.
10 Probable cause has been established by a properly returned
11 indictment.

12 We are here to consider whether or not these
13 three Defendants are able to be bonded by this Court
14 because of the crimes which they are charged with, as
15 already been noted. There is a presumption in play, and
16 that presumption is that there is no condition or no set
17 of conditions that can assure that the Defendants will
18 come to court when required or will not be a danger to the
19 community. And it's up to the Defendants to rebut that
20 presumption.

21 And I would ask the Court when considering the
22 evidence that was presented to rebut that presumption to
23 put it in context. All of the individuals that came to
24 testify on behalf of these three Defendants: Mr. Stokes
25 for Mr. Carter, Mr. Martinez for Mr. Martinez, that's

1 Sergio Martinez on behalf of José Martinez, and Ms.
2 Jessica -- excuse me -- Ms. Jacqueline Tellez on behalf of
3 Mr. Hidalgo. Throughout their testimony they laid a
4 foundation of daily or frequent contact with these
5 individuals.

6 I think Mr. Stokes it was in the context of
7 visiting with Andrew either at his mother-in-law's house
8 or at Sarah Carter's house, which is 1569 Georgia Avenue,
9 as Your Honor is familiar. Sergio Martinez, daily
10 contact, working together. And Ms. Tellez saying that she
11 kept in frequent contact. And then they testified in
12 great familiarity about their lives. However, this
13 familiarity was established and testified to as being in
14 place during the course of this conduct.

15 So these three men who sit before you were asked
16 if they could be, I guess, minded by other adults to
17 prohibit them for continuing to engage in the criminal
18 conduct for which they are charged.

19 I believe Mr. Martinez may have said it best when
20 he says, "They have the freedom to do what they want."
21 And, in fact, while working for his brother, Mr. Martinez
22 did have the freedom to do what he wanted. Mr. Carter had
23 the freedom to do what he wanted.

24 Your Honor will recall the testimony from Sarah
25 Carter's detention hearing about the daily dealing of

1 crack cocaine from 1569 Georgia Avenue, where Mr. Stokes
2 testified that he would visit with Andrew Carter, but yet
3 he testified he did not see any drug activity.

4 The same for Ms. Tellez. She testified that she
5 works a lot, she's a hard worker. She takes care of her
6 family, and she calls and she speaks with Carmen, another
7 grown woman, to check up on this grown man while he's out
8 driving back and forth to Atlanta in that blue minivan
9 with a significant amount of money, that is drug money.

10 I submit to the Court that that is completely
11 inadequate to rebut the presumption that these three
12 gentlemen are not a risk to our community.

13 And I don't want to belabor the point because I
14 know we've been here a while, but before I move to the
15 factors, I think you asked Mr. Martinez, Your Honor, how
16 Mr. Martinez, that being José, could be prohibited from
17 using the phone. If they take away his phone, is he going
18 to get another phone, is he going to use someone else's
19 phone. There is no way that another individual can watch
20 Mr. Martinez 24/7 short of incarceration.

21 That is the government's position, that the
22 presumption has not been rebutted by the evidence
23 presented here today. Even if the Court disagrees, it
24 remains in play, and it remains in play militating against
25 these Defendants release.

1 And then we go to the factors, which Your Honor
2 is aware is outlined at 18 USC 3142. And I believe that
3 on these factors as well, the Defendants should not be
4 granted a bond. And I'm going to try to take them in a
5 somewhat organized fashion, Your Honor. And we'll start
6 with Andrew Carter.

7 And applying to all three of these, it is
8 established precedent in this jurisdiction that an
9 indictment for drug trafficking is strong evidence
10 standing alone of danger to our community, and that's US
11 v. Allen at 891 F.Supp. 594, which is a 1995 case, and
12 that's also an Eleventh Circuit case. So the indictment
13 alone is a large drug conspiracy involving firearms and
14 these three Defendants is strong evidence. But the
15 government did not stop there.

16 The government put Agent Luke on the stand. We
17 played calls for Your Honor, we showed you photographs,
18 and that itself is just a smidge of the entire evidence
19 against these three gentlemen.

20 Now, from that evidence that the Court -- that we
21 presented to the Court as it pertains to Andrew Carter we
22 know, factor one, it involves a controlled substance
23 offense. It also involves firearms. So that factor is
24 met as to Andrew Carter, as to José Martinez and as to Mr.
25 Juan Sanchez Hidalgo.

1 Factor two, the weight of the evidence against
2 the person. Reasonable minds can disagree about the
3 weight of the evidence; however, I will remind Your Honor
4 about the calls that we played and the substance of those
5 calls. I believe we played eight calls total or rather we
6 played seven and Agent Luke testified about an eighth,
7 that would be 4803 in regards to how much money it was
8 going to take to make the 2 kilo buy from Mr. Fatboy. On
9 those calls, there were Andrew and José talking. These
10 are the two gentlemen who are running their enterprise,
11 and this is a daily thing.

12 So we have their family members, who obviously
13 love them as they should, testifying to daily contact, but
14 these gentlemen, through the calls, and I think the dates
15 were August 31st, September 2nd, September 4th, September
16 11th, September 17th, September 19th, September 24th, and
17 September 25th, this is a daily thing. To run an
18 expansive drug trafficking organization, you have to have
19 daily contact. You've got to keep in touch with your
20 supplier. You've got to put people on the road. You've
21 got to go and get more supply. So they're in constant
22 contact with each other.

23 And what are they talking about? They're talking
24 about getting cocaine, buying cocaine, making crack
25 cocaine, and who's going to go and pick it up or who's

1 going to take the money to go and get it.

2 So the weight of the evidence submitted by the
3 government is strong.

4 And let me address Mr. Hidalgo. The idea that he
5 is just a money courier, it makes me think about I think
6 it's the saying that an army moves on its stomach. So
7 those individuals who move that food in those convoys from
8 the troops to wherever they are, are essential to the
9 success of the army. Without individuals like Mr.
10 Hidalgo, who can be trusted with nearly a quarter of a
11 million dollars, a drug trafficking organization would not
12 flourish. And not only does he get trusted with that much
13 money, he is a father-in-law figure, he's family, he's
14 trusted to know where the supplier lives, how to get
15 there, his apartment number, and then he's trusted with
16 nearly a quarter of a million dollars. So he's not just a
17 money courier.

18 In addition, the Court will recall Agent Luke
19 testified that Andrew Carter talked about the price per
20 kilogram that Andrew knew that Mr. Hidalgo charged to
21 transport cocaine --

22 MR. HAUGABROOK: I'm going to object, Your Honor
23 --

24 MS. BOWEN: -- of 500 to 600 dollars.

25 MR. HAUGABROOK: -- to that. I think that is an

1 improper characterization of that testimony.

2 MS. BOWEN: Your Honor, that's exactly what Agent
3 Luke testified. I asked him about if Andrew Carter had
4 provided a price per kilogram that Mr. Hidalgo charged and
5 if that was common.

6 MR. HAUGABROOK: I think the testimony from the
7 agent was that that would be a price range for a person
8 who transported cocaine. Now unless I've mistaken Agent
9 Luke's testimony I do not believe he said that that's what
10 Mr. Hidalgo charged to transport cocaine.

11 THE COURT: All right. Mr. Haugabrook, your
12 objection is noted. The Court will resolve that conflict
13 when it retires to review its notes.

14 MS. BOWEN: The government's point being, Your
15 Honor, that he was not just a money courier, that he would
16 also move cocaine for this organization. And even the
17 phrase to be just a money courier, we're not talking about
18 small amounts of money.

19 And that also leaves off the point that Mr.
20 Hidalgo contributed his own funds to the purchase of this
21 kilograms of cocaine.

22 Your Honor will recall Government's Exhibit 6
23 talks about the supplier needing 2 tomorrow, but he said
24 he needs for us to send 2 tomorrow, Agent Luke testified
25 to that.

1 And then we have the calls 4803 and Government's
2 Exhibit 7, which is 4811, where Agent Luke did the math
3 for us. We knew that José, following the takedown of this
4 enterprise, he offered a price per kilogram of \$36,000;
5 Andrew offered a price of \$39,000; we took the more
6 conservative, \$36,000. We knew from call 4803 that Andrew
7 had put in 30, José had put in 17, and the difference
8 needed to make that amount was \$24,000. And it is clear
9 from those exhibits, which I know Your Honor has before
10 you, that paw-in-law was going to make up that difference.

11 And let me also state that on these calls, of
12 course, José refers to him as his paw-in-law. He is
13 familiar with Andrew Carter. They run a business
14 together, they speak to each other, sometimes daily, and
15 he's not going to say Mr. Hidalgo, he's going to say my
16 paw-in-law.

17 Now, as to the third factor, the history and
18 characteristics of the person. Your Honor has the bail
19 reports in front of you. I will note for the Court as to
20 Andrew Carter that he did flee on the night that he was
21 arrested. In fact, his flight was so vigorous that he
22 broke the back door of the Love's Travel Mart. Your Honor
23 can also see that he has numerous convictions and arrests.
24 I'll note for Your Honor that the 1996 possession of
25 cocaine conviction he was on probation during the time of

1 this offense as well as the 2009 theft by receiving stolen
2 property. So while he's out running his business relating
3 to drug trafficking he's on probation for at least two
4 other offenses.

5 Mr. Martinez, he has been to prison for
6 trafficking in cocaine. He went to prison in 2004.
7 Shortly after, Your Honor will recall the testimony from
8 Agent Luke, the kidnapping of his sister, Aracley Rivera.
9 That kidnapping was drug related. He went to prison in
10 2004. Due to the generosity of the Department of
11 Corrections, he got out in 2011. He was paroled in 2013,
12 I believe it was October of 2013. The time of this
13 conspiracy is January 2013 through October 2014. So while
14 he's on parole, he's again running a drug trafficking
15 business.

16 Now, as to the history and characteristics of Mr.
17 Hidalgo. We've gone back and forth, back and forth, about
18 his immigration status. The reason that is relevant, Your
19 Honor, is because it raises the stakes on remaining here.
20 And the reason it raises the stakes is because Mr.
21 Hidalgo, though he came here as a child and certainly if
22 his parents came here, it's reasonable to believe he came
23 here with them and I'm not attributing any ill will or
24 illegality to that to him, but his status is that of an
25 alien, he is not a United States citizen. And so once,

1 and if, while they are still charges, he is convicted of
2 this crime, it is an aggravated felony under the
3 immigration statutes, and he will be deported. So
4 therefore, he is subject to being removed back to Mexico.

5 I will also note that he has only been in the
6 Tifton area, I think the testimony from Ms. Tellez was, a
7 year and a half, perhaps a little bit more, but less than
8 two years. He has significant ties to Texas that are
9 outside this Court's jurisdiction. So he is incentivized
10 to flee.

11 In addition, any calculations about what he's
12 facing would have to be based on the amount of controlled
13 substances attributed to him, and that has not been done
14 yet. So it is -- it's premature to say what his guideline
15 range might be. What the Court should consider is that he
16 is charged with an offense for which the mandatory term of
17 imprisonment is ten years, that's the minimum.

18 And, Your Honor, I just -- I don't want you to
19 forget that phrase "just a money courier" or "just almost
20 a quarter of a million dollars". That cannot be ignored,
21 and it cannot be mistaken, and it was in Mr. Hidalgo's
22 possession on the way to their supplier.

23 So I think I have said enough, and I will sit
24 down.

25 THE COURT: All right. Thank you, Ms. Bowen.

1 And the Court will take this opportunity to thank each of
2 the witnesses who have testified and the agent and the
3 counsel for their presentations. I think the Court has
4 been provided as full a picture as it can be provided in a
5 hearing such as this, and I've got a lot to consider, a
6 lot of testimony, exhibits, argument. So we'll recess.
7 Let's see, it's 20 minutes until 5. I'm going to shoot
8 for being back with decisions by 5:15.

9 Again, the Court doesn't know what it's going to
10 do, but any witness who is identified as potentially a
11 third party custodian, the Court would appreciate it if
12 they would hang around if the Court ends up going in that
13 direction.

14 All right. So we'll recess until 5:15.
15 (Recess)

16 THE COURT: All right. The Court knows it's
17 late, and I appreciate everybody's patience, but I wanted
18 to make sure I gave due diligence to each Defendant and
19 all the evidence that I've heard.

20 As to all three Defendants, the government
21 enjoyed what's known as a rebuttable presumption, which
22 means just because of the charges in the case the
23 government enjoyed a presumption that stated there are no
24 conditions this Court can set to reasonably assure the
25 safety of the community and the Defendants appearance at

1 future court appearances. But that presumption can be
2 overcome through testimony.

3 And really all three witnesses who took the stand
4 for the Defendants were very credible, Mr. Stokes, Mr.
5 Martinez, and Ms. Tellez. And through their testimony,
6 the Court finds that the rebuttable presumption was
7 overcome as to each of the three Defendants.

8 Now, once the presumption is overcome it still
9 remains in the case. The Court is still supposed to
10 consider it when it considers the other factors in the
11 Bail Reform Act. And I want counsel and the parties to
12 understand that the Court has been through all of the
13 factors, but I'd like to point out to everyone what the
14 Court found were the key facts that led to the Court's
15 decision as to each of the Defendants.

16 As to Defendant Carter, while Mr. Stokes did a
17 very commendable job regarding his nephew, as so often
18 happens in these cases, the Court can't look at any
19 Defendant in a vacuum, it has to look at its entire
20 history. And the biggest negative that Mr. Carter has, of
21 course, is his criminal history. His criminal history
22 indicates that he was on probation for two different
23 offenses, from two different courts at the time that
24 there's probable cause that he was engaged in a drug
25 conspiracy in this case.

1 If, in fact, it is ultimately found that he was
2 engaged in a drug conspiracy in 2013 and 2014, then
3 obviously he would have violated the terms of those two
4 different probation or probated sentences.

5 In addition, he's had his parole revoked in a
6 separate case.

7 His criminal history reveals prior drug
8 convictions. It involves five arrests for wilful
9 obstruction of a law enforcement officer, three of those
10 arrests led to convictions. Even after his uncle returned
11 to Omega from Texas, Mr. Carter has been charged with a
12 wilful obstruction, a hit and run, and a drug offense,
13 current offense.

14 In addition to that criminal history, of course,
15 the Court has heard the evidence that drugs and guns are
16 involved and Mr. Carter was involved with drugs and guns
17 in this case. And, of course, there's a photograph that
18 the government has introduced showing Mr. Carter with a
19 semiautomatic weapon engaged in an alleged drug
20 distribution.

21 In addition to all that, there was also evidence
22 that Mr. Carter has fled the police on two separate
23 occasions, including most recently when he was attempted
24 to be put in custody in this case.

25 For all of those reasons, the Court is going to

1 grant the government's motion as to Mr. Carter, and the
2 Court finds by clear and convincing evidence that there
3 are no conditions the Court can set to reasonably assure
4 the safety of the community as to Mr. Carter.

5 As to Mr. Martinez, the government has shown no
6 evidence linking Mr. Martinez to any guns. As opposed to
7 a codefendant in this case, the Court has no evidence that
8 Mr. Martinez's home was being used to either manufacture
9 drugs or sell drugs from. On the other hand, it has been
10 established, at least for purposes of this hearing, that
11 Mr. Martinez is above Mr. Carter in the alleged conspiracy
12 to distribute drugs, and while Mr. Carter may be described
13 more as a street level, Mr. Martinez is making the
14 contacts, whether they be in Atlanta or Texas, according
15 to the wire, which concerned the Court.

16 It's not so much the flight risk, because I think
17 his family will keep him in the community, but the Court's
18 concern is evidenced by my question to his brother was,
19 "What can the Court do to reasonably assure the safety of
20 the community?" What was particularly significant to the
21 Court in Mr. Martinez's case was that, one, I do have
22 evidence presented at this hearing that he's involved in
23 the conspiracy and that he's a higher level than Mr.
24 Carter, or at least he is in a different position when it
25 comes to the distribution. The evidence shows Mr.

1 Martinez was moving around purchasing cocaine, delivering
2 it to Mr. Carter.

3 The Court was concerned that in one of the
4 intercepted phone calls that the quantity of 10 to 15
5 kilos a week was referenced. Mr. Martinez, I believe,
6 told the Texas folks that he couldn't move as much as 50,
7 but 10 to 15 kilos a week seemed doable.

8 In addition and probably of most concern to the
9 Court in regard to Mr. Martinez was two items. One was
10 that Mr. Martinez was convicted of a prior drug
11 trafficking offense in Lee County in 2004 and served seven
12 years of a 25 year sentence, that he was on parole until
13 October of 2013, and that while he was on parole for that
14 prior drug offense, that it is alleged that he engaged in
15 a drug conspiracy, 2013 and 2014.

16 So, Mr. Martinez, if -- if you had not been on
17 parole at the time of this new alleged conspiracy or if
18 this prior drug offense had been in your distant past, you
19 know, earlier than 2004, the Court could have very easily
20 come up with a different result, but the fact that you
21 were on parole and under the Bail Reform Act this Court is
22 specifically told to consider whether any defendant before
23 it is alleged to have been on parole at the time of the
24 alleged new offense, and that indeed appears to be the
25 case.

1 So the evidence before the Court is that you
2 served seven years, got out on parole in 2011, the parole
3 was going to end in 2013, and yet you got involved again
4 in a drug conspiracy.

5 Now, keep in mind, Mr. Martinez, this Court is
6 not making any factual findings regarding the ultimate
7 guilt or innocence, I'm simply charged with considering
8 what's before me to make the best decision I can regarding
9 release or detention. It's a difficult one because you
10 have so much family behind you and you only have that one
11 conviction, but the truth is it's so recent and the fact
12 you were on parole based on the evidence that's been
13 presented.

14 The Court is also going to grant the government's
15 motion for detention as to Mr. Martinez.

16 As to Mr. Hidalgo, the Court does not have the
17 danger concern it did with the other two Defendants.
18 Instead the question is really the flight risk. Mr.
19 Hidalgo's only been in south Georgia for two years.
20 Apparently has a romantic interest in El Paso that, the
21 Court takes judicial notice of, is close to the border.

22 The Court is aware of the ICE proceedings that
23 could ultimately, if Mr. Hidalgo is convicted in this
24 case, could lead to his deportation, so there is a reason
25 to flee.

1 On the other hand, as counsel pointed out, I
2 don't have any evidence directly linking Mr. Hidalgo to
3 transporting drugs. The Court, based on the evidence
4 before it, believes Mr. Hidalgo was simply a courier. Of
5 course, the Court doesn't come in with blinders on. It's
6 hard to imagine that Mr. Hidalgo was not aware of what he
7 was transporting.

8 Nevertheless, the ultimate question for the Court
9 is whether there are conditions the Court can set to
10 reasonably assure his appearance at a future court
11 proceeding, and I believe I can.

12 So at this time, Mr. Hidalgo, if you and counsel
13 -- your counsel and counsel for the government will
14 approach the first bench, I'm going to set those
15 conditions for your release. And the interpreter as well
16 obviously.

17 All right. And what I'm going to do is indicate
18 the conditions the Court intends to set, and then I'll ask
19 counsel if they wish to be heard on any of the conditions.

20 All right. First of all, as to Mr. Hidalgo, the
21 Court will order a \$15,000 bond secured by ten percent.

22 Mr. Hidalgo, that will require that you pay
23 \$1,500 into the registry of the Court. Should you appear
24 in the future and obey the Court's order, you'll
25 eventually get that money back. Should you fail to appear

1 or violate the order that I'm about to read, you could
2 forfeit the entire amount of \$15,000.

3 In addition to that bond, the Court will enter an
4 order setting conditions for your release, which I will
5 now read.

6 Defendant must not violate any federal, state, or
7 local law while on release. You must cooperate in the
8 collection of a DNA sample if authorized by federal law.
9 You must advise his supervising officer in writing before
10 any change in address or phone number. You must appear in
11 court as required. And if convicted, must surrender as
12 directed to serve any sentence which may be imposed.
13 You'll be required to sign the bond the Court referred to
14 earlier.

15 Additional conditions of release are the
16 following:

17 You'll need to submit to supervision by the US
18 Probation Office.

19 You'll need to continue or actively seek
20 employment. Whether it's with the car dealership or some
21 other job, the Court expects you to seek employment.

22 You must surrender any passport he has to the
23 probation office. You must not obtain a passport or other
24 international travel document. His travel will be
25 restricted to the State of Georgia unless he obtains prior

1 approval from the US Probation Office.

2 He's not to possess a firearm, destructive
3 device, or other weapon.

4 Not to use alcohol excessively. Not to use or
5 unlawfully possess a narcotic drug or other controlled
6 substance unless prescribed by a licensed medical doctor.

7 In addition, Defendant will be subject to a
8 curfew from 9 p.m. to 6 a.m. 9 p.m. to 6 a.m. he's
9 restricted to his residence. He's also subject to home
10 detention, meaning he's restricted to his residence except
11 for employment, education, religious services, medical,
12 substance abuse or mental health treatment, attorney
13 visits, court appearances, court ordered obligations, or
14 other activities approved in advance by his supervising
15 officer.

16 He'll be required to submit to location
17 monitoring, and he'll be required to pay for the cost of
18 that program.

19 Lastly, he's to report as soon as possible to his
20 supervising officer every contact he may have with law
21 enforcement, including any arrest, questioning, or traffic
22 stop.

23 All right. Ms. Bowen, does the government
24 request any other conditions?

25 MS. BOWEN: No, Your Honor. There are no other

1 conditions that the government requests. I understand
2 that that is the Court's decision, and I don't know if
3 this would be the appropriate time to request the Court a
4 24 hour stay of your order of release so that I might
5 appeal this decision. Respectfully so, Your Honor, I'm
6 recognizing that it is 10 until 6 and the Clerk's Office
7 is closed, so any security could not be paid until
8 tomorrow regardless of any request of the government for a
9 stay. So that is the request of the government.

10 THE COURT: I'll address that once we get through
11 the order.

12 MS. BOWEN: I did not want to miss the
13 opportunity. As far as conditions the government has
14 (inaudible) short of its motion for detention.

15 THE COURT: Mr. Haugabrook, you want to be heard
16 on any of those conditions the Court proposes?

17 MR. HAUGABROOK: No, Your Honor.

18 THE COURT: All right. Mr. Hidalgo, I need to
19 advise you of certain penalties that apply while you're on
20 federal release. Should you commit a federal felony, the
21 punishment is an additional prison term of not more than
22 ten years. If you commit a federal misdemeanor, the
23 punishment is an additional prison term of not more than
24 one year. So if you commit a federal offense while on
25 federal release, there's a penalty on top of any sentence

1 you might receive.

2 Lastly, I need to advise you that it's a crime
3 punishable by up to ten years in prison and a \$250,000
4 fine or both to obstruct a criminal investigation; tamper
5 with a witness, victim, or informant; retaliate or attempt
6 to retaliate; intimidate or attempt to intimidate a
7 witness, victim, juror, informant, or officer of the
8 Court.

9 Now, we'll address the government's motion. Ms.
10 Bowen, of course -- and I'll remind all parties that any
11 order from this Court in a detention order is reviewable
12 by the District Judge de novo, and that applies to any
13 Defendant as well as the government.

14 The law and practice in this District is that if
15 the government moves to have such a release order
16 reviewed, and, Ms. Bowen, you have made that motion.

17 MS. BOWEN: Yes, sir, I have.

18 THE COURT: Then this Court's order of release is
19 stayed until the District Judge reviews it and has an
20 opportunity to issue an order. Of course, that's up to
21 the District Judge whether he orders the transcript or has
22 an entire new hearing.

23 So, Mr. Hidalgo, what that means in plain
24 speaking is that this Court has ordered your release, but
25 the government is entitled to have my decision reviewed by

1 a higher authority. They've exercised that right, which
2 means my order is stayed, and you'll remain in the custody
3 of the US Marshal until the District Judge issues a
4 decision.

5 Now, Mr. Lawrence, I have detention orders as to
6 the other two Defendants, and I'll get you to file them.

7 Though my order is stayed on the chance that it
8 saves us from a future court appearance, we'll go ahead
9 and execute all the documents that we need to, but then
10 I'll enter an order making it clear that that's stayed.

11 MS. BOWEN: Thank you, Your Honor.

12 THE COURT: So, Mr. Hidalgo, you're going to be
13 handed those two documents to sign, so we'll go ahead and
14 get that out of the way.

15 All right. And just for the record and counsel's
16 benefit, the Court notes that the release documents have
17 been signed and will be filed, but this Court verbally at
18 this time issues an order staying that release and will
19 follow this verbal order with a written order to make it
20 clear that this Court's order of release is stayed until
21 the District Judge reviews it.

22 All right. So, Mr. Haugabrook, while I've got
23 you up here, anything further today on behalf of your
24 client, Mr. Hidalgo?

25 MR. HAUGABROOK: Nothing at this time, Your

1 Honor.

2 THE COURT: All right. And, Ms. Williams,
3 anything further today on behalf of your client, Mr.
4 Carter?

5 MS. WILLIAMS: No, Your Honor.

6 THE COURT: Mr. Walker, anything further today on
7 behalf of Mr. Martinez?

8 MR. WALKER: No, sir, Your Honor.

9 THE COURT: Ms. Bowen, anything further from the
10 government as to any of the three Defendants?

11 MS. BOWEN: No, Your Honor. Thank you.

12 THE COURT: All right. Thank counsel again for
13 your presentations and all the witnesses. Good luck to
14 all three of the Defendants, and we're adjourned.

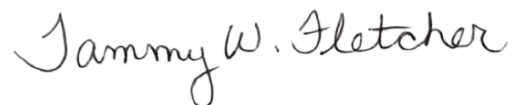
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16 (The proceedings were thereby concluded).
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CERTIFICATE OF OFFICIAL REPORTER

I, Tammy W. Fletcher, Federal Official Court Reporter, in and for the United States District Court for the Middle District of Georgia, do hereby certify that the foregoing is a true and correct transcript to the best of my knowledge and ability from the electronic recording provided in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 3rd day of February, 2014.



TAMMY W. FLETCHER, CCR
FEDERAL OFFICIAL COURT REPORTER